FINLAND:

The Question of Autonomy and Fundamental Laws.

BY THE LATE

N. D. SERGÊEVSKY,

EMERITUS PROFESSOR OF THE ST. PETERSBURG UNIVERSITY, AND THE IMPERIAL SCHOOL OF JURISPRUDENCE, SENATOR, MEMBER OF THE COUNCIL OF STATE, ETC., ETC.

[*Translator: Victor E. Marsden, M.A., St. Petersburg.*]

LONDON:
WYMAN & SONS, LTD.,
1911

Price Fourpence.

With the Compliments of the Translator, who would feel obliged by acknowledgment of safe receipt. Address: ST. PETERSBURG, Sadovaja 18, Mr. Victor E. Marsden, M.A.

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. . . "HAVING ANNEXED Finland FOR EVER TO RUSSIA We have seen with pleasure the solemn oaths taken by the population of this borderland of true and lasting SUBJECTION to the Russian Sceptre" . . . . "In the rank of peoples subject to the Russian Sceptre and forming A SINGLE EMPIRE the inhabitants of Finland newly annexed have henceforward assumed their place FOR EVER."—(From the Manifesto of June 5, 1808.)

. . . "This country CONQUERED by Our arms We annex henceforth for ever TO THE RUSSIAN EMPIRE, in consequence whereof We order that an oath be taken from the inhabitants of loyalty as SUBJECTS TO OUR THRONE."—(From the Manifesto of March 20, 1808.)

. . . "THESE PROVINCES . . . . henceforward remain in the property and sovereign possession of THE RUSSIAN EMPIRE and are thereto for ever annexed. . . . "—(Fredrikshamn Treaty of Peace, September 5, 1809.)

AUTHOR'S PREFACE

THE present sketches comprise a brief explanation, couched in an easily understood form, of the question of the so-called Finnish "constitution" and the Finnish "fundamental" laws, in connection with the law of February 3, 1899, defining the order of promulgation of general State laws for the Empire, including the Grand Duchy of Finland.

It has not been my intention to enter into polemics with those Finlander publicists who maintain the State independence of Finland, and are exciting among its people a hostile attitude towards Russia. In my opinion it is impossible to persuade them of anything as it is impossible to prove anything to such people. My object has been to present to the Russian reading public an explanation, within the limits of my abilities, of the most important factors of the so-called "Finnish Question," *i.e.*, the question of the status, from the point of view of public law, of Finland in the composite Russian State. The educated Russian, it seems to me, ought to have a clear understanding of the subject matter of this question; he ought to know that it is a purely political question which has no relation to the national spirit and peculiar character of the Finnish people, in so far as those qualities find expression in the language of society and literature, in religion, in morals, manners and customs, or generally in the culture of the Finlander people, while it is, at the same time, a

question the settlement of which in the sense required by Russia does not involve any manner of attempt at violation of the outward well-being attained by Finland under the protection of the Russian State, after long years of ruin and devastation in war during the period of Swedish sovereignty over Finland.

The history of the conquest of Finland, the mutual relations of Russia, Sweden and Finland, in the preceding epoch, the methods of Russian administration of Finland before and after the sixties of last century, the formation and operations in Finland of.a party hostile to the union with Russia (Swedomans—Swedophils), the formation and programmes of the Old Finn and the New Finn parties,—all this has its literature in the works of Michaelo-Danilevsky, Ordin, Elenev, Korkunov, Borodkin, Danielson, Hermanson, Berendts, Michaelov, and others* ; a review of the monuments of Finlander legislation may be found by the reader in the book by Korewo.† Keeping to the aim set before me I confine myself only to those aspects of the Finnish question which have an immediate significance for the legislative policy of our own day.

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* *See* the bibliography by Borodkin (in Russian), " Finland in the Russian Press," St. Petersburg, 1902.

† Korewo, " On the Promulgation of Laws of the Russian Empire," St. Petersburg, 1900. *Idem.* " Promulgation of Local Laws of the Russian Empire," in the collection ; " Library of the Borderlands of Russia," edited by Prof. Sergêevsky. *See also* the publications of the Temporary Commission—" On the Promulgation of Laws of the Grand Duchy of Finland," St. Petersburg, 1902, and " Collection of Ordinances of Finland," Vol. I. preface.

I

Finnish Autonomy.

Finland, after being conquered by force of arms by Russia in 1808, became, in the words of the Treaty of Peace with Sweden, executed at Fredrikshamn on September 5/17, 1809, "the property and sovereign possession of the Russian Empire."*

While it was a part of the Kingdom of Sweden, Finland possessed no elements, not merely of State independence, but even of provincial autonomy, neither in the administration of the law, nor in finance, nor in administrative government. It did not even possess any special and unvarying political denomination of its own; the Kings of Sweden merely bore the title of rulers of Finland. Finland appears for a brief period at the end of the thirteenth

* Full Coll. Laws, No. 23883, October 1/13, 1809. Art. IV. of this Treaty says that the conquered "provinces with all their inhabitants, towns, ports, fortified places, villages and islands, as also their properties and privileges, rights and advantages, henceforward remain in the property and sovereign possession of the Russian Empire, and are thereto for ever annexed." Art. VI. of the above Treaty runs as follows: "Inasmuch as His Majesty the Emperor of All the Russias by most indubitable instances of mercy and justice has already signified the form of his government to the inhabitants of the regions now acquired by him, by guaranteeing, on the sole impulse of his magnanimous royal assent, the free exercise of their religion, rights of property and privileges, His Swedish Majesty is thereby released from the otherwise sacred obligation to propose any conditions whatsoever in favour of his former subjects."

and beginning of the fourteenth centuries with the title of "Duchy," and again under King Eric XIV., (1560–1568) whose brother Johann was exiled to Abo with the title of Duke of Finland. The Duchy was confined, moreover, to a small part of the present area of Finland, namely, to the Aland Islands, and parts of the provinces of Viborg, Niuland and Abo. In the year 1581, Finland received the denomination of "Grand Duchy," but this name later on, from the time of the great war in the North when a part of Finland passed to Russia, disappeared and the Kings of Sweden ceased even to use the title. It was only in 1802, under Gustav Adolph IV. that his second son, Karl Gustav, was given the title of Grand Duke of Finland. The foundation of Finnish Autonomy was laid by the Emperor Alexander I., when he preserved to the provinces he had acquired the operation of their local laws and local regulations, "on the sole impulse of his magnanimous royal assent," to quote once more the Fredrikshamn Treaty.

From that time forth Finland, still further enlarged by the addition to it in 1811 of the Province of Viborg, assumed an altogether peculiar and privileged position in the composite Russian State, and received, moreover, in Russian legislative Acts, the regular denomination of "Grand Duchy of Finland."* A wide autonomy in all departments of government, a separate financial economy

* There was likewise included in Finland a part of West Bothnia, which had never before belonged to it, surrendered by Sweden to Russia in the same year, 1809.

and separate fisc, the institution of a legislative representative organ, the diet, essentially a class-representation, the maintenance of the official importance of the local languages, Swedish and Finnish, the complete separation of Church administration, the very exiguous powers of the Governor General, the chief representative of the State authority in the country,—these were all conditions which brought about complete isolation of the administration, and an internal dissension of the Finnish provinces* from all the other parts of the Empire. The financial economy of Finland, moreover, was put on a footing which is not to be found, so far as I am aware, anywhere else in the world. Finland, for a space of ninety years, took no part in the heaviest financial items of Russian expenditure. While enjoying all the blessings of unbroken peace and military protection of its territory, Finland paid nothing towards the military budget of the Empire—neither for maintenance of troops and military administration, nor for erection of fortresses, nor for a navy and naval forces. Finland took hardly any share at all in the enormous extraordinary expenses incurred by Russia in her numerous wars of the nineteenth century, and up to the eighties Finland maintained only the most insignificant number of troops—from one to two thousand men per annum. The

* M. Mechelin objects to the use of the expression " Finnish provinces." In his opinion, Finland has relations to Russia only as a whole. M. Mechelin must have forgotten that the Fredrikshamn Treaty of 1809 speaks (Art. IV.) definitely of " conquered *provinces*." We cannot suppose that M. Mechelin denies the significance of the Fredrikshamn Treaty as a fundamental document defining the status of Finland.

whole burden and all the losses of military preparations, under which all European States are suffering, never touched Finland. Under the protection of Russian arms Finland for a whole century has been in a position to expend all her forces and all her means exclusively on internal peaceful progress, and her protector from the evils of war, to which she had been a victim during the centuries previous to the Russian Conquest, has been the Russian soldier, the Russian Treasury. But the hundreds of millions saved from military expenditure do not by any means represent the whole gains of the Finnish fisc. Finland pays nothing towards the expenditure of the Ministry, the Imperial Court, the Ministry of Foreign Affairs and diplomatic and Consular representation abroad, although it also enjoys all the advantages of our international relations.

Finally, Finland has enjoyed, and still enjoys, in many other directions an advantageous position before all the other parts of the Empire. For example, Finnish "nobles" enjoy all the rights of Russian "nobles"; but Russian "nobles," even though they should have settled in Finland and acquired there landed property, do not enjoy the rights of Finnish "nobles." Finnish citizens have the right of entering the services of the State throughout Russia on equal terms with all Russian subjects; but Russian natives of Finland are all but excluded from the public services in Finland, partly by law and partly in virtue of the fact that the public service is made conditional in Finland on having received an education in the

Finnish schools. Graduates of the Helsingfors University enjoy all the rights appertaining to graduates of Russian Universities; but Russian diplomas give no rights whatever in Finland, equally with the diplomas of foreign Universities.*

The peculiar status of Finland as an integral part of the Russian State had long attracted attention in the scientific literature of State Law, for it was something absolutely original, a form of State relations not found anywhere else. Several theoretical attempts were made to bring the status of Finland under this or that type of composite State structure recognised by science; a special theory was even created about a fragment or bit broken off a State.

In Finland itself, among Finlander politicians, the privileged status of the country served as a groundwork not merely for theoretical generalisations, but also for the development of a doctrine, directed against the sovereign rights of the Russian Emperors, to the effect that Finland is a separate State merely in relation of union or alliance with Russia. The party of Separatists, hostile to Russia, gathering strength ever since the beginning of the sixties, has caused no little confusion on this ground in the minds of the population of Finland; having on its side a con-

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* The abrogation of limitations on the rights of Russians to enter the public services in Finland, as also the recognition of certain rights as attaching to holders of diplomas of Russian Universities, etc., in the public service of Finland, were gained only by Imperial order (July 18/31, 1902). Even this decree has been in its turn abrogated by the well-known Manifesto of October 22/November 4, 1905.

siderable part of the Finnish public servants, this party, thanks to the isolation of Finnish administration and the feebleness of the superior control, contrived to introduce its views into literature (especially the educational literature), into life, and into the proceedings of the public offices. Whole generations of Finnish youth have been reared on text-books of history and geography in which Finland is represented as a separate State, barely tied by some obscure treaties to Russia. Hundreds of public servants have endeavoured to give expression to the same idea in official correspondence, in the text of projects of law, etc.; when matters came to a dispute, and proofs were found lacking, reference was made to "general principles" of Finland's social structure, principles which have never been established and are known to none.* Out of a fog of artificially turned phrases, suggestions, and suppressions, and not infrequently statements and assertions absolutely unsupported, but nevertheless put forward in very decided forms of expression, arose with rapid growth

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* The origin of this reference, not infrequently heard even in our own day, to "general principles," is not without interest. The memoirs of a leading Finnish politician of the early days after the conquest of Finland, contain the following suggestive lines: "We shall avoid expressing the real reasons for our course of action; we shall 'argufy' as to whether this is good and that is bad; our new rulers have not yet penetrated our constitutional mysteries. It will not matter if our statements are weak in proofs; all that is necessary is that they should not be at variance with the formula which must play the leading part, namely *principiis obstat.*" V. Castren, Finska Deputationen p. 35. Ordin, "Conquest of Finland," Vol. II., pp. 175, 178.

the legend of a Finnish State and forced its way into the highest governing spheres.†

This political propaganda bore rich fruits: many mistakes were made and allowed to be made by our Government in this direction; during the past thirty or forty years there have been introduced into the text of Finnish enactments, and even into the structure of Finnish administration, features calculated to arouse some real doubts in the minds of ill-informed people who ask themselves such questions as: "Is not Finland an independent State? Does not its privileged status derive from some treaties or other with Russian Emperors, which limit their power according to the principles of international law? Did not Alexander I., and after him his successors on the throne, renounce their rights over Finland as over an

† The following may be given as an example. There was printed at Helsingfors in 1885, in the Russian language, for circulation among Russians, a small book, luxuriously got up, entitled: "A Short Sketch of the State Structure and Administration of the Grand Duchy of Finland." In this book were laid down, in short dogmatic formulas, given as indisputable truths or direct enactments of law, all those data which were required to support representations of the independent "Finnish State." Without any kind of qualification whatever it declares that the Emperor Alexander I. made a "treaty" with representatives of the Finnish people; it lays down the law about the "throne" of the Grand Duchy of Finland, and even about the "coronation" of Finnish sovereigns, but admits that the latter is "not obligatory . . ."

The author of this book—he did not give his name nor will we—knew perfectly well and knows now, that there never was any kind of treaty, that not only no ceremony of "coronation" but even no Finnish Princes had ever existed in the world, and there had never been anything but the titles. But the fog grew so thick that foolish Russians were capable of believing anything, and, in point of fact, many did believe.

inseparable part of the Russian Empire ? " We will go further and say that, in our opinion, it is in the errors in administration in the last half century that is to be found the sole origin of the influence and strength acquired in our days by the party in Finland which is hostile to Russia. Up to that time propaganda and agitation acted in secret ; overtly no such questions ever came to light, to say nothing of an active struggle and opposition to the Government. The remarks on this subject of Elenev, in his well-known work, " Why Victors are Sometimes Turned into Vanquished " are very true. He says (p. 26) : " On the side of the Finlanders was a *system* well thought out and resolutely carried into effect right from the year 1809, at first patiently and cautiously, as circumstances permitted, then with a pressure and insistence and an insolence likewise permitted by circumstances. On their side too were persons of ability and energy, men of enlightenment and experience, acting then as now they act to-day, like one man. These persons made use against Russia and still make use, in the broadest sense of the words, of the weapons of falsehood, deception and forgery. On the opposite side throughout this period there have been *neither system nor men* ; the specious mystifications of the Finlanders were met on the Russian side by the most unconscionable credulity and simplicity ; no competent Russian eye was once allowed to penetrate the secret of Finnish affairs ; in this region of the Russian realm any that had a mind to it could concoct and propagate among the people what they called Swedish fundamental laws that destroyed root and

branch the rights of Russia in this region ; Russians, on the other hand, might be persecuted, insulted, beaten. The Finlanders with arms in their hands, nay, even with the assistance of England and Sweden, would never have attained that which they have attained so cheaply, thanks to their system and our easy-going nature, our slothful ignorance and our want of system."

As to the fundamental historical arguments on which the Finlander Separatists build their whole doctrine of a Finnish State, they are, in themselves, very feeble indeed ; they consist of isolated words and phrases in speeches and documents and are easily confuted by other such expressions used, moreover, in acts not merely of equal significance but of much greater importance, such for example as those quoted on the title-page of this book, from the Manifesto of 1808 and the Fredrikshamn Treaty of Peace of 1809 before-mentioned.*

The Finlanders point to the text of Art. 4 of our Fundamental State Laws (Coll. Laws, Vol. I.) edition of 1832, which says : " With the Imperial throne of all the Russias are inseparable the thrones of the Kingdom of Poland and of the Grand Duchy of Finland." In this indication, as it were, of an independent throne of the Grand Duchy

* In these acts, which have beyond all question the significance of the corner-stones of a foundation, the expression used with the utmost definiteness is that Finland (the Fredrikshamn Treaty even says simply " Provinces " without any hint that these conquered provinces formed a special unit) is annexed *to Russia*, forms with Russia *a single Empire* and its inhabitants take the oath of allegiance *as subjects of the Russian sceptre.*

they see a recognition of a "Finnish State."* The Emperor Alexander I., say the Finlander Separatists, spoke of the Finnish people as "élevé au rang des nations —jouissant d'une existence politique," consequently he recognised the independent political State-rights of Finland; so also he is supposed to have actually called Finland a State in the following words: "il importait au bien être de l'Etat, que les administrations provincielles

* The text of this Article has caused misunderstanding also to some of our Russian jurists. For this reason we think it necessary to introduce here a note which, however, does not contain anything new. The expression of this Art. IV.—"the thrones . . . of the Grand Duchy of Finland" derives solely, as may be seen by our quotations, from the Manifesto of December 12/24, 1825, on the Accession of the Emperor Nicholas I. This Manifesto actually does say: " . . . On Our Accession to the throne of our ancestors of the Empire of All the Russias and to the inseparable therefrom thrones of the Kingdom of Poland and the Grand Duchy of Finland, We order . . . " But all subsequent Manifestoes on the Accession of the Emperors Alexander II., Alexander III., and our present gracious sovereign the Emperor Nicholas II., with perfect correctness set aside this idea of a multiplicity of thrones and, without including any sort of suggestion about a Finnish throne, speak of the accession of our sovereigns "to the throne of their ancestors of the Empire of All the Russias and the Kingdom of Poland and Grand Duchy of Finland inseparable from it" (Full Coll. Laws, Nos. 1 and 11014). As for the acts of the reign of Alexander I. there is not to be found in them so much as a hint of any "throne" of the Grand Duchy of Finland, for the simple reason that Finland, as shown above, never was a State or anything like a State, and had neither a throne nor any other marks of State independence; in the Manifesto of March 20/April 1, 1808 there are, on the other hand, the following words, which leave no room for any doubt as to their meaning: "This country . . . We annex to the Russian Empire and in consequence thereof we have ordered an oath to be taken from its inhabitants of allegiance to Our Throne." This will suffice, we believe, to indicate the true meaning of the words in question of Art. IV. of the Fundamental Laws, edition of the year 1832.

eussent un point central, un tribunal suprême " ;* reference is made even to Speransky, who, in his report to the Emperor of February 11/23, 1811, made use of the expression : " Finland is a State and not a province."† The reader who may be interested in the subject will find in Finnish and Russian literature a detailed statement of arguments of this kind, together with criticisms on them and arguments on the other side.

For our part we are of opinion that the whole dispute, based as it is on interpretations of isolated expressions and words found in historical documents may continue in literature as long as people please to maintain it. A State, a Semi-State, a fragment of a State, a State of special type unlike everything else in history, a non-sovereign State but an autonomous State, and so on and so forth—all this may turn and twist about in the manner of a kaleidoscope in the pages of school books, monographs and newspaper articles for many years to come ; the only thing that can be regarded as harmful here is the false exposition of historical facts and the garbling of authentic texts. Freedom of judgment belongs to theory ; without it science cannot exist. But the practical solution of the question in our opinion is contained in the two

* Preamble to the Order of the Ruling Council, August 6/18, 1809.

† Collected Papers of the Imperial Russian Historical Society, Vol. XXI. The passage quoted from the Report of Speransky, taken in connection with the rest of the Report, in reality contains nothing else than remarks on the large number and the complexity of the affairs of the administration of Finland, for the conduct of which at St. Petersburg the then existing Chancellery of three officials was insufficient.

following principles: firstly, Finland *cannot* be a State either of one or another type, and *must* be an inseparable part of the Russian Empire, bound to the other parts by all those established facts the existence of which is essential for the Russian State. Then, secondly, if Finland, none the less, were to turn out to be a State not merely in theory but in practice, *i.e.*, if it were in one way or another to secure for itself State independence and self-sufficiency, supported not by words but by some actual deeds, then that very moment *must* be taken the most decisive measures to destroy such a state of things and to incorporate Finland with the other parts of the Empire.

This solution of the question is a matter of absolute State necessity, quite regardless of the side taken by the *communis opinio doctorum* in the interpretation of isolated words in historical documents. It was in this way that Prussia dealt with Pomerania, which a century ago formed a part of the Kingdom of Sweden just as Finland did, and, moreover, a part that was more separated and independent,* but fell to the lot of a conqueror less mild than was the Emperor Alexander I.

All that we have said above is perfectly well understood by the Finlander politicians themselves, and for this reason the more far-sighted of them are ceasing to speak of a "Finnish State," ceasing from the moment that the

* Pomerania had its structure separate from the other parts of Sweden as expressed in the "Form of Government" of 1663; this Finland never had. The special "Form of Government" of 1663 was abrogated only in 1806, in consequence of a collision between the Pomeranian Diet and the King on the question of military service.

Russian Government has begun to look with close attention to what is going on across the Finnish frontier. But while changing the loud-sounding word "Staten" for the more modest "Landet," they continue to try and introduce with great persistence into the solution of every question connected with this problem, as large a number as possible of elements of Finnish separatism. The Manifesto of February 3/15, 1899, on the Order of promulgation of general State laws for the whole Empire, including Finland; then the Manifesto of June 7/20, 1900, on the gradual introduction of the Russian language into the public proceedings, and again the Regulations of Military service in Finland of June 29, July 12, 1901—all gave occasion for a specially acute conflict. Against these enactments were brought out all the stores of arms from the magazines of the doctrine of a Finnish "State": the theory of the stability of the so-called Finnish "fundamental laws," and the assertion that Finland has had ever since 1809 a sort of a "constitution" of its own, and the partisan interpretation of separate Manifestoes, issued for Finland on the accession to the throne of Russian Emperors, and the statement that in Finland the only laws operative are Finnish laws provided in the special order of Finnish legislation.

Worked in this way these doctrines cease to be merely theoretical and become of a practical importance, since they cause excitement in the country and are a means of awakening opposition to the measures of the Government.

II

Local Laws and General State Laws

(The edict of Feb. 3/15, 1899.)

The regulation of Finnish legislation, which to a large extent was bound up with obsolete principles of law of a former age, had long been an object of concern to our Government.* The Emperer Alexander II, in his speech at the opening of the Finnish Diet, delivered September 6/18, 1863, pointed out the necessity of making a collection of the most important laws in operation in the Grand Duchy of Finland. As a result of this speech a Special Committee was formed of officials of the Grand Duchy, and proposals were drafted by it, but were not of a nature to receive confirmation. At the opening of the next Diet the Imperial Speech of January 26, 1867, again pointed out the necessity of regulating Finnish legislation in view of the fact that "by force of circumstances the correspondence of the original laws of the Grand Duchy with the position that had developed after the annexation of Finland to the Empire had disappeared." But the question of making a collection of the laws of Finland went no further during the reign of the Emperor Alexander II.

* For this, *see* Korewo. "The Promulgation of Local Laws of the Russian Empire" (Collection of the journal, "Borderlands of Russia," No. 4, edited by Prof. Sergeevksy).

In 1884 came the Imperial order concerning the establishment of a special codification committee to draw up a systematic collection of all laws in operation relating to the State Law of Finland. The committee was to complete a draft for presentation to His Majesty the Emperor through the Finnish Senate, with the latter's remarks thereon. The codification committee made a draft of laws in two parts a " form of government for the Grand Duchy of Finland," and a law on class privileges. It was the idea of the committee that these laws should put on paper the " Constitution of Finland " : they were to be called the " Fundamental Laws of Finland," and were to be subject to amendment, addition or abrogation only with the consent of all four estates of the Diet in the order of Par. 71 of the Statutes of the Diet of 1869. By Imperial order of the year 1889, the labours of the committee were to be communicated for their decisions to the Director in Chief of the Codification Department of the Council of State and the Minister of Justice, and thereafter laid before a Special Council for preliminary examination. This Council was to assemble at Helsingfors under the presidency of Adjutant-General Count Heyden and consist of the vice-presidents of Departments of the Finnish Senate and six Senators. At the sessions of this council, held in the months of October and November, 1890, officials of the Codification Department and of the Ministry of Justice likewise took part.

The drafts of the codification committee, notwithstanding the objections made against them, formed the basis of

the draft of "Fundamental Laws" drawn up by the Finnish Senate, and presented for the Imperial consideration on May 22, 1891. The Governor General of Finland, Adjutant-General Count Heyden, on his part, though not acquiescing in the fundamental idea of the draft, presented to the Emperor, at the end of 1891, his proposals on the matter, together with a draft of his own for "settling the administration of the provinces of the Grand Duchy of Finland." At the same time Count Heyden secured the Imperial permission to introduce this draft to the consideration of the Council of State, after subjecting it to a preliminary examination in a Special Council of the highest officials of the central institutions of the Empire; one or two representatives of the Finnish Senate, at the discretion of His Majesty, taking part in the deliberations.

In fulfilment of Count Heyden's petition the Emperor ordered the formation of a Special Council under the presidency of Actual Privy Councillor Bunge, to which was to be referred—so His Majesty willed—not only the draft of Count Heyden but also the drafts prepared by the Finnish Senate.

At the very outset of the work there arose a question in the Special Council concerning the order of legislative decision of questions which, owing to their close connection with general State needs, could not be subjected to the exclusive operation of Finnish institutions. It appeared that no definite regulations existed regarding the drafting, introduction, consideration and confirmation of laws of this nature; the existing regulations concerned merely

the order of promulgation of *local* Finnish laws not having a general State significance. The Council came to the conclusion that it was necessary to discriminate absolutely the question of local Finnish " fundamental " laws from the question of the order of promulgation of laws of general State interest having application to Finland, and this latter question it was decided to take first as the subject of consideration for the Council as formed, proposing to relegate to a special commission the question of the fundamental laws of Finland.

In accordance with this programme the Special Council proceeded to the consideration of the order of promulgation of laws of general State interest, and unanimously recognised that draft of laws of this category should be subjected to consideration finally in the Council of State, with the co-operation of the Minister State-Secretary for Finland and the Governor-General of Finland; members of the Finnish institutions being admissible to the sittings of the Council for the purpose of giving any explanations that might be required. The minority of members, however, (viz., all the members of Finnish institutions), considered it necesssary as a preliminary to the issue of any law on this head, to draw up a detailed list of those subjects on which might be promulgated laws common to the Empire and the Grand Duchy of Finland.

The majority, on the other hand, considered the compilation of such a list as impossible and unnecessary. And indeed, without even troubling about the question as to whether it is possible or impossible to draw up a definite

and exhaustive list of *subjects* of general State legislation, it is impossible not to see that the fundamental idea of general State legislation in regard to Finland, lies not in the establishment of any definite and immutable line of demarcation between general Russian and local Finnish interests (there is not and there cannot be any such line of demarcation), but in the possibility of withdrawing from the exclusive legislation of Finland and subjecting to a special order of legislative settlement any question whatsoever, provided that its subject matter and the circumstances of the day make it necessary to do so in the general interests of the State. For this reason any definite list, of any kind whatsoever, of subjects for general State legislation could only serve as a hindrance in the attainment of the object aimed at. The Finnish members insisted upon the drawing up of a list, but this was solely in the interests of Finnish State separatism.

The same differences of opinion, between the majority of the Council on the one hand and the Finnish members on the other, took place in the further course of deliberation on all points of detail concerning the order of drawing up and introducing to the Council of State draft-laws, as well as on the question of the scope of the rights of the Finnish Diet and Senate. In view of this difference of opinion Actual Privy Councillor Bunge referred the matter to the Emperor. On March 9, 1893, the late Emperor Alexander III. issued his order that the order of promulgation of laws of general State interest for the Empire, including the Grand Duchy of Finland, should be extracted from the

drafts of Adjutant-General Count Heyden and the Finnish Senate, and be referred *directly* to the consideration of the Council of State, both the proposition of the majority and of the minority of the Special Council.*

With the death of the Emperor Alexander III., the matter was stopped for a time. But on January 13, 1899, there issued the Imperial order to draft a legislative act on the order of promulgation of laws of general State interest for the Empire, including the Grand Duchy of Finland, in a Special Council under the presidency of His Imperial Highness the President of the Council of State, the Grand Duke Michael Nikolaevich. In fulfilment of the Imperial will the Special Council drew up a draft of the Manifesto and Fundamental Principles which received the Imperial sanction on February 3, 1899.†

The question of drawing up a list of subjects of general State legislation arose also in this Council, but, precisely as in the case of the Council presided over by Actual Privy Councillor Bunge, was not acted on. The Council of the Grand Duke Michael Nikolaevich, being guided by a clear recognition of general Russian interests and not yielding to the pressure of Finlander Separatists, did not content itself with merely rejecting the proposal to draw up such a

* M. Mechelin, replying to my book in a series of objections printed in three languages—Russian, Finnish and Swedish—says of this passage: "Maybe the word 'directly' was not at all to be found in the Imperial order though it has got into the text of our author" (p. 33 of the Russian edition). To an insinuation of this nature I scorn to reply. The documents are no secret, and everyone may satisfy himself on this matter.

† *See* Appendices I. and II.

list, but considered it necessary to lay down clearly in the Manifesto the principle that the new order was established for all questions arising in the administration of Finland " which by their close connection with general State needs cannot be subjected to the exclusive operation of the institutions of the Grand Duchy." It was moreover accepted that the only regular procedure was that the direction of matters in the order of general State legislation should be decided in each several instance by Imperial order (Fundamental Principles, Art. I.).*

As we have said above, the Manifesto of February 3, 1899, and the Fundamental Principles aroused protests and objections on the part of the Finlander political Separatists. This party announced that the legislative Act of February 3, 1899, was a violation of the Finnish Constitution and was in contradiction with " the fundamental laws " of the country, confirmed both by the Emperor Alexander I. and by special Manifestoes (or " Assurances ") of all succeeding Emperors on their accession to the throne. These statements found expression even in the special petition of the Finnish Senate to the Emperor.

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* The text of this document was printed in the *Moscow Gazette*, 1899, No. 60.

III

The Manifestoes ("Assurances")

After the conquest of Finland, the Emperor Alexander I. in the year 1809, in two Manifestoes, declared his will concerning the preservation of the original laws of the country, the rights and privileges of the population. Thereafter, the Emperor Nicholas I., and after him also all succeeding Emperors on their accession to the throne made the same declaration in special acts. These acts, differing one from another only in a few forms of expression, have the general characteristics of Imperial Manifestoes (they begin with the words "By the Grace of God, We, etc."): nevertheless a very different signification has been applied to them, namely: in the Swedish text of the Finnish Enactments they are called "Försäkran," and, to correspond with this, have been called in the Russian text up to recent times "Assurance" or "Confirmation." This special Russian nomenclature disappears only in the Manifesto of our present happily reigning sovereign the Emperor Nicholas II., but the Swedish version preserves the name "Försäkran" as of old.

The first Manifesto of the Emperor Alexander I., signed March 15/27, 1809, at Borgo* runs as follows:

* Collection of Finnish Enactments, No. 2, Samling af Placater, Vol. I., p. 19. *See also* Appendix to Finnish Code, St. Petersburg, 1827.

" Having entered by the will of the Almighty into possession of the Grand Duchy of Finland We have thought fit hereby once more to confirm and assure the Religion, original laws, rights and privileges which each class of this Duchy in particular and all subjects inhabiting it, great and small, by their Constitutions have hitherto enjoyed, promising to keep them inviolate and immutable in virtue and operation ; in token whereof also We have been pleased to confirm this Grant by Our sign manual."

The second Manifesto of March 23 April 4 of the same year 1809,* says : " Having summoned the classes of Finland to a general Diet and accepted their oath of allegiance as true subjects, We have desired on this occasion by a solemn act declared in their presence in the sanctuary to confirm and assure the religion, original laws, rights and privileges which each class in particular and all the population of Finland in general have enjoyed up to this present." In 1825, on the accession to the throne of the Emperor Nicholas I., the Manifesto of December 12/24, of that year,† declares : " We declare by these presents that by the will of the Almighty having entered as our heritage into possession of the Grand Duchy of Finland, We have thought fit hereby once more to confirm and assure the religion, original laws, rights and privileges, which each class of this Duchy in particular and all subjects inhabiting it, great and small, by their constitutions

* Jakubov, Sbornik, p. 271.

† Collection of Finnish Enactments, No. 39. Samling af Placater, Vol. V., p. 56.

have hitherto enjoyed, promising to keep them inviolate and immutable in virtue and operation : in faith whereof also We have been pleased to confirm this Grant by Our sign manual." On the accession to the throne of the Emperor Alexander II. the Manifesto of February 19 March 3, 1855,* announced : "We have thought fit hereby once more to confirm and assure the religion, original laws, rights and privileges, which each class of this Duchy in particular and all subjects inhabiting it, great and small, by previous enactments have hitherto enjoyed, promising to keep them inviolate and immutable in virtue and operation," Further in the original follow the concluding words : " in faith whereof also this Grant, etc.," as in the preceding Manifestoes ; but in the printed text of the Collection of Finnish Enactments these words are omitted and the Manifesto was published in a mutilated form without the concluding words. As we shall see later this was no mere accident : it was the first step in the cancelling of the original nomenclature of these acts as " Grants " (" Gramota "). On the accession to the throne of the late Emperor Alexander III. announcement was made on March 2/14, 1881,† as follows : " We have thought fit hereby once more to confirm and assure the religion, fundamental laws, rights and privileges which each class of this Grand Duchy in particular and all subjects inhabiting it, great and small, by the enactments of this country have hitherto enjoyed, promising

* Sbornik Postanovlenii (Samling af Placater), Vol. XV., p. 250.
† Collection of Enactments of the G. D. of Finland, 1881, No. 7.

to keep them inviolate and immutable in virtue and operation." The concluding words aforementioned are now no longer to be found in the original text of this Manifesto. Finally, in the Manifesto of our present happily reigning sovereign the Emperor Nicholas II. of October 25 November 6, 1894,* the expressions of the preceding Manifesto are repeated word for word.

The texts of the above-quoted Manifestoes, while presenting an almost absolute identity, nevertheless contain at the same time also a few differences deserving of attention: the expression of the Manifestoes of 1809 and 1825 " by their constitutions " is replaced in the Manifesto of 1855, and those succeeding, by the word " enactments "; the expression " original laws," used in the Manifestoes of 1809, 1825 and 1855, is changed in the Manifestoes of 1881 and 1894 to " fundamental laws; " the concluding words of the Manifestoes of 1809 and 1825, in which the Manifesto is called a " Grant " (" Gramota "), are omitted in the printed text of the 1855 Manifesto, and is entirely absent in the original, as well as in the printed text, of the Manifestoes of 1881 and 1894.

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* Collection of Enactments of the G. D. of Finland, 1894, No. 40.

IV

The Constitution

The Manifestoes above quoted have served in the hands of Finlander politicians as an argument in support of their doctrine that the Emperor Alexander I. confirmed what they call the " Constitution " of Finland, and that all his successors likewise confirmed it after him. This idea has been applied first of all in the name given to the above Manifestoes, which have been called Försäkran, with a translation of this Swedish word into Russian by the word " Assurance " or " Confirmation." " Försäkran " has no other meaning than the oath or sworn promise of the Swedish Kings to be true to the constitution ; the word " Assurance " as also the word " Confirmation " have never been used and are not used now in the Russian language for naming any legislative acts.

Notwithstanding the fact that in the issue of these Manifestoes Russian sovereigns made no kind of sworn promises, the idea of a " Finnish Constitution " was brought to the front with especial vigour in the sixties of last century, and was accepted for true to some extent even in Government spheres. This view, supported by a considerable body of Finlander scholars and Finlander public

men,* has continued to develop up to the present day, and at last found expression in sharply defined form in the petition, above referred to, of the Finnish Senate on the occasion of the issue of the Imperial Manifesto and the Fundamental Principles of February 3, 1899.

The closest examination of the afore-mentioned Manifestoes shows, without a doubt, that they never had the significance attributed to them by the Finlanders. It is matter of history that the Emperor Alexander I. in the early years of his reign was arrested by the idea of a constitutional structure of the State; it is possible to allow also that the idea of a federate-constitutional structure of the Russian Empire was not strange to his mind. In relation to Poland, or to be precise to the Duchy of Warsaw, he carried out his idea by the grant of a Constitutional Charter in 1815. But why then did he not issue a similar charter for Finland which had been conquered even before Poland? Poland, strictly speaking, stood in much less need of a charter by far than Finland, inasmuch as it had the Constitutional Charter of the Duchy of Warsaw, which was far from being obsolete. Obviously there was a difference of principle in the attitude of the Emperor to Poland and to Finland.

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* In Finlander literature it is put plainly that these Manifestoes of our Emperors merely took the place of the constitutional oath of Swedish sovereigns, which was a necessary preliminary condition of the oath of allegiance. In accordance with this theory the Magistracy of Helsingfors acted in October, 1894. They gave orders to postpone the taking of the oath of fealty to the sovereign who had just ascended the throne, until the publication of the "Assurance of the Monarch."

A cause of misunderstanding is the fact that in the Manifesto of the Emperor Alexander I. the word "Constitution" is used; this word is found also in the French speech which the Emperor made at the opening of the Diet in 1809, again in the Manifesto of February 9, 1816, establishing the Finnish Senate, is to be met with in several other documents, and, finally, is repeated in the Manifesto of the Emperor Nicholas I., in 1825. Particular importance is attached by the Finlanders, among other documents, to the Manifesto of February 9, 1816. In this Manifesto the Emperor announcing the establishment of the Finnish Senate, declares that this reform does not involve any change "in the constitution and laws"; at the same time, referring to the past, he mentions that "in taking up the sovereignty over this country," he had already confirmed "the constitution and laws applicable to the customs, state of culture and spirit of the people of Finland," and that, by the measures of administration in the period that had elapsed, he had already "sufficiently" confirmed the promise given by him to preserve "the special constitution of this country under Our sovereignty."

But what precisely could this "constitution" be at that period?

The Finlanders say that by the word "constitution" is meant the Form of Government of the year 1772 and the Act of Union and Safety of 1789.* In point of fact

* Both these acts are printed in Russian translations in the appendix to Ordin's work, "The Conquest of Finland," Vol. II. (Prof. Sergeevsky also gives these translations in full.)

neither the one nor the other of these acts is, in the original text, called a " constitution " ; indeed the word " constitution " does not so much as appear anywhere in any form throughout—it has been introduced quite lately only in a Russian version made by a Finlander translator, who in the concluding part of the Form of Government, instead of the Swedish word " lagbundit," which means " in accordance with law " or " lawful," has substituted the word " constitutional." If the Manifestoes had had in view these acts they would, of course, have been mentioned not by any general word " constitution," but precisely as they are named in the original texts of the acts themselves. Besides it is perfectly evident that neither the Form of Government of 1772 nor the Act of Union and Safety of 1789 could be taken, quite apart from any consideration of their contents, as " constitution " coming before the sovereign power for confirmation, for the simple reason that both these acts concerned the King of Sweden and not the Emperor of Russia, and related, moreover, not to Finland alone but to the whole of Sweden with the exception of Pomerania.* Over and above all this the first of these Acts lost the greater part of its significance with the promulgation of the second. The Russian Emperors, Alexander I. and Nicholas I., could not of course have confirmed as a law establishing a constitution any docu-

* Finlander politicians go so far as to call the Form of Government of 1772, in direct contradiction of historic fact, " the Form of Government of the Grand Duchy of Finland," which occasions a good deal of convenient misunderstanding among the ill-informed.

ments of this kind in their Swedish texts and without any revision of their contents, to say nothing of such regulations as, for example, the rule that the Monarch must profess the Lutheran faith, or of such passages as the concluding part of the Form of Government of 1772 which expresses the " greatest abhorrence for autocracy (Souverainitet)."

Quite apart from what has been said above, a closer acquaintance with the contents of these acts shows us, first of all, that the greater part of the regulations laid down in them could not, and cannot now, be actually applied to Finland after its separation from Sweden; secondly, that of those regulations which might have been applied to Finland apart from Sweden, a considerable part has never been observed, neither under Alexander I. nor under his successors on the throne, and that up to the sixties of last century this fact did not call forth any protests or objections. Thus, the Diet—that most essential element of any form of constitutional government—up to the year 1863 was never summoned, and no law for the order of its summoning was ever promulgated. The order of appointment to the highest posts and offices, indicated in Sect. 10 of the Form of Government, was never observed; the regulation of Sect. 11 concerning the limit of numbers of noble houses—also. Sect. 15 which says that the supreme Court for Finland, the Hofgericht, must meet at Abo, had been long ago violated—the Legal Department of the Senate, which met at Helsingfors ever since 1819, was the highest court, while under the title of Hofgericht had been founded three courts of second

instance, of which the second Hofgericht had been established at Vasa, already under the sovereignty of Sweden. Further, according to Sect. 33, the office of Governor-General of Finland was inadmissible " except in special cases " ; but, as all men know, this office was established as a regular post from the very first days of the annexation of Finland to Russia, and from the year 1833 there was instituted also the office of Assistant Governor-General. In flat contradiction of sect. 40, laws were promulgated " without the knowledge and consent of the State officials." By sect. 48 the consent of the State officials is required for a declaration of war. By par. 8 of the Act of Union and Safety of 1789, every sovereign on his accession to the throne must " with his own hand sign this act of Union and Safety "—this has not only never been done, but no idea of any such signature could ever have seriously presented itself to anyone.

If the Emperor Alexander I. had really had the intention to grant Finland constitutional government, in accordance with the Form of Government of 1772, and had continued in this intention in the second half of his reign, after the Napoleonic wars—when, as is well known, his political views underwent a great change—he would certainly never have contented himself with the former indefinite words and expressions in speeches and rescripts, but would have been careful to secure the constitution of Finland by definite acts of a practical nature and, in any case, would not have permitted any departures from the constitutional principles that are expressed in the Form of

Government of 1772. I repeat that it is perfectly possible the idea of a constitutional form of government for Finland occurred to the mind of His Majesty: but it is undoubted that he never carried it into effect.

Let us try to admit as an arguable proposition, in order to avoid any charge of partiality, that the Emperor Alexander I., though he did not confirm the Form of Government and the Act of Union and Safety in their full form, nevertheless accepted them and approved them in certain parts, namely, in those parts which were applicable to Finland and not opposed to the interests of Russia. This theory is put forward by Finlanders owing to the impossibility of proving that these acts were confirmed in their entirety. But even so, is it not perfectly plain that the texts of the Swedish Form of Government and Act of Union and Safety, taken by themselves, could not have any special significance, to say nothing of the significance of a constitution, until such time as the sovereign power had definitely indicated precisely what articles and principles of these documents should have the force of law, and which were rejected as inapplicable, or opposed to the interests of Russia? And who but the sovereign power is competent to decide what is, or is not, opposed to the interests of the State? Is the constitutional government of a borderland, for example, consistent with the autocratic government of all Russia? But neither the Emperor Alexander I., nor any of his successors on the throne, has given us any purified and amended text

of the Swedish Form of Government. Quite the contrary. As we have already shown, the principles of these acts, that were most important from the practical point of view for Finland, have never been observed at all from the day when Finland was annexed to the Russian Empire.

It is impossible also to ignore the following circumstance. If the Form of Government of 1772, and the Act of Union and Safety of 1789, had been really accepted as legislative acts, with constituent properties defining the status of Finland in its relations to the sovereign power, is it possible that neither the supreme government nor the administration of Finland would never have troubled to publish such important acts in a Russian translation ? All the more so that all important laws of the Swedish period, which retained their virtue in Finland, were issued by Imperial order in the Russian language : in 1824 the General Swedish Code of 1734 ; in 1827 the extensive supplements thereto. Can we possibly allow that the most important acts comprising the constitution of the country could have remained, under such circumstances, as it were forgotten and ignored ? A full Russian translation of these acts was first printed only in 1889, and then not by the Government or by the Finnish authorities, but by Ordin in his book, which is directed against the doctrine of a Finnish "State" and a Finnish "constitution."

The Finlanders nevertheless adduce in support of their views the following fact : at the end of the original text

of the Statutes of the Diet of 1869, immediately before the Imperial signature of Alexander II. are the words: "Reserving to Ourselves the right belonging to Us in the form laid down in the Form of Government of 1772 and in the Act of Union and Safety of February 21/ April 3, 1789, and not replaced by definite words in the above Statutes of the Diet, We give our Imperial approval and confirmation of these Statutes as an inviolable fundamental law." The Finlanders attach special importance to this signature. They say that it contains evidence that the Form and the Act therein mentioned are confirmed by the sovereign power as a constitutional law. It is impossible to deny that this signature, by its form of expression, is calculated to cause misunderstanding and to serve, for those who desire to make such use of it, as some support for a false interpretation. But the direct sense of it gives no ground for the conclusion that the Swedish Form and Act were ever confirmed as substantive legislative acts. Quite the contrary: the passage deals with the rights of legislation of the Diet in the form in which they were laid down in the Form and the Act; these rights are: the rights of summoning the Diet, the rights of legislative initiative, and the right of confirming projects of laws. The Emperor Alexander II. could have no other rights in mind than these in confirming the Statutes of 1869, and certainly not the Swedish Form and Act in their entirety. For it is impossible to admit that our sovereigns ever confirmed any laws whatsoever not directly in the established order, but by some sort of

suggestions found in expressions relating to other matters.*

Quite recently, certain writers desirous of maintaining, at all costs, the idea of a Finnish "constitution" as from the year 1809, have been using the following highly

* Unfortunately the opinion we have been considering has found support in indirect hints and divers pettifogging saving clauses which have been introduced into the text of Finnish laws ever since the 'sixties. Such is, for example, the phrase introduced into the preamble of the law of June 13/25, 1886 (Coll. F. Enactm., 1886, No. 22) on the granting to the local officials the right of legislative initiative. The whole contents of this law are in amendment of Secs. 51 and 52 of the Statutes of the Diet of 1869; nevertheless, in the preamble are included the following words which are absolutely out of place: "In abrogation of Par. 6 of the Act of Union and Safety of 1789." The object of interpolating these words is self-evident, namely, to show that the Act of 1789 is a law in operation, although it it perfectly plain that the corresponding principles of this Act, if they had had the force of law, would in any case have already been replaced by Secs. 51 and 52 of the Statutes of the Diet of 1869. A similar saving clause is included in the rescript of December 5th, 1863, on the prolongation of the Diet (Sbornik Postanovlen. 1863, No. 35), where a reference is made to Sec. 46 of the Form of Government; in the Statute on military service, December 6, 1878 (*ibid.*, 1878, No. 25), in Sec. 88 is a reference to Sec. 18 of the Form of Government. Unquestionably the admission of pettifogging saving clauses like these is a great oversight on the part of the Russian Government, but it is likewise unquestionable that these saving clauses and references, however many there may be of them, do not constitute any *confirmation* of the Form of Government of 1772. They simply bear witness to the fact that someone desired to show that the Form of Government had already been confirmed, or was really persuaded that it had been confirmed. But when? Obviously in the days of Alexander I. But we know as a fact that Alexander I. not only did not confirm the Form of Government and the Act of Union and Safety, but even refused to allow any kind of mention or discussion of it in the Borgo Diet. The references to the Form of Government began to appear only in the 'sixties of last century; before that period they are not to be found in a single law of the time of Alexander I.

original method of argument : they say that Alexander I. confirmed the constitution of Finland " in principle," but not in fact. He declared, according to this view, that he was confirming the constitution, but this constitution itself he never established, and did not even give any clear indication as to what precisely in the Swedish constitution was to be preserved for Finland. We should like very much to know what significance a concept of this kind can have for a jurist ! On the one hand the constitution was confirmed : on the other it was not in existence ! These amateurs of a constitution have surely gone to a great length in their fantastic inventions of late ! We all know that the Emperor Alexander I. belonged to the category of evasive politicians, and that in the second half of his reign, changed his views and convictions in many matters ; but the theory adduced above goes, as may readily be seen, a great deal further : it accuses Alexander I. not merely of breaking his plighted word, but of direct deception. So be it—let us admit even this, improbable and absolutely unproved as it is—but is it not plain for every unprejudiced and clear-minded man, that even on this supposition the Finnish " constitution " of 1809 all the same has no existence in fact, that it is nothing more than a Finlander invention ?

In reality there is a misunderstanding here, which is not difficult of explanation : the word " constitution " gained its significance as a strict term in State law, to connote certain *fundamental* principles of the structure of a State, only in the thirties of last century ; before

that period the word " constitution " in all languages was used in a wider sense : it embraced not only the legally established order of government in general—quite apart from any connotation of limited monarchy or autocracy—but also every kind of separate act of legislative authority which dealt with a separate subject of any considerable importance. Thus the word " constitution " at that time fully corresponded to the Russian words meaning " institution " or " establishment " as well as Statutes, Code.

" There is no State," says Speransky in his " Guide to the Study of Law," " which has not its fundamental laws. The Fundamental Laws, in their fulness and entirety, are called the Statutes of the State (*Constitutio*)." Still more definite is the expression found in his recently published " Note " (*Historical Review* " Vol. IX.). Speransky, who is making various proposals for amendments in the future, considers it necessary in the present to maintain " the *autocratic constitution* of the State."

Every trained jurist knows the titles " Constitutio Criminalis Carolina," " Constitutio Theresiana," et similia ; nor can Finlander politicians fail to be aware of them, and they are nothing more than criminal codes. In old German literature may be frequently met the expression, Constitutio Academiæ, that is, the Statutes of a University (*e.g.*, Lipsiensis, *i.e.*, of Leipzig). " Constitutions" of a precisely similar character were the names given to the enactments of the Polish and Lithuanian Diets. In the ukaz of June 25, 1804, (Full Coll. Laws, 13591) mention

is made of the " Constitutions of the Diet " promulgated on the basis of the Lithuanian statute or in supplement of it ; these words are to be found even in the existing Code of Laws, namely in the note to Art. 1317 of Civil Laws (Vol. X., Part I., Ed. of 1900). In the legal procedure of the first quarter of the nineteenth century is to be found not infrequently the expression " military constitutions," in the sense of regulations of military service. The well-known Baron Rosenkampf, writing in his memoirs some information about Speransky's draft of the institution of the Council of State in 1810, says : " All this (*i.e.*, Speransky's draft) was provided with an introduction in which were set forth the so-called constitutional definitions and fundamental principles." Later on he says " the newspapers published this constitutional act," *i.e.*, the law concerning the Council of State.

These examples appear sufficient, but they might be multiplied to infinity.

There is not the slightest room for doubt that the Emperor Alexander I., and, of course, the Emperor Nicholas I., used the word in the general sense noted above, without attributing to it the significance of a strict term of State law that it has nowadays. This is fully confirmed, first, by the fact that the word is used in the Manifestoes in the plural " constitutions," " according to the constitutions : " and secondly, that in the Manifesto of the Emperor Alexander II. the word " constitutions " is, quite intentionally, replaced by the word " institution," an expression that is preserved also in

the subsequent Manifestoes of the Emperor Alexander III. and the Emperor Nicholas II.

Such is the actual condition of affairs. From this point of view, also, the above quoted words of the Manifesto of February 9, 1816, are fully elucidated. As we saw, the Finnish constitution is there called "special," and it is there spoken of together with other laws "applicable to the customs of the people of Finland." If we understand "constitution" in its narrower sense then it would be impossible to call the Finnish constitution a "special" constitution, inasmuch as there was no constitution of any kind in Russia; on the other hand the internal administration of Finland actually did preserve a "special" form, and at the same time, also, divers laws "applicable to the customs of the people of Finland."

As to the "assurance" Manifestoes and their being called by the specially constitutional technical term "Försäkran," a very slight historical investigation shows distinctly the course taken by these "assurance" Manifestoes, how the very significant word "Försäkran," gradually crept in, step by step, into the text of the Finnish Enactments.

The Manifesto of the Emperor Alexander I. of March 15/27, 1808, contained, as we have seen, a concluding paragraph: it ran "in token whereof also We have been pleased to confirm this *Grant* by Our sign manual." It would hardly seem as if the word "Grant," (*gramota*) had anything whatever in common with an oath, or sworn promise; nevertheless the Swedish text replaces this

word "Grant" by the word "Försäkran." This was the first appearance of this word. Later on, in the Manifesto of the Emperor Nicholas I. of December 12/24, 1825, which has the same concluding paragraph, a special fly-leaf heading was prefixed in the printed edition, and on this fly-title the Manifesto was called, without any further ado, simply "Försäkran" in Swedish, and in Russian not "Gramota" (Grant) as it should have been, and not even "Manifesto," but by a new word "Udostoverenie" (Assurance). Later again, in the Manifesto of the Emperor Alexander II. of February 19/3 March, 1855, the concluding paragraph already quoted is omitted from the printed edition, though it occurs in the original, and the fly-title with the word "Försäkran," is retained. In the Manifesto of the Emperor Alexander III. of March 2/14, 1881, the following further step was very artfully taken: the concluding paragraph is wanting now not only in the printed edition but also in the original, and the title, "Försäkran" is transferred from the fly-title to the actual text of the Manifesto as a heading. So, also, is printed in the "Collection of Finnish Decrees" the Swedish text of the Manifesto of His Majesty the Emperor Nicholas II., of October 25/6 November, 1894.

Thus the move was finally completed: the word "Försäkran" received outward significance of an official title to all appearance established by the very text of the law.

The required deduction followed quite naturally: according to the old Swedish order of procedure the oath

of allegiance to a sovereign on his accession to the throne had to be taken only after the sovereign had affixed his signature to the "Försäkran." Every trace of the actual origin of this word as an improper translation of the word "Gramota" disappeared at the same time, thanks to the artful suppression of the concluding paragraph of the Manifesto quoted above.

Let me add to what has been said above, the following interesting episode in the history of these "assurance" Manifestoes. The repeated issue of these Manifestoes began, as is well known, with the Emperor Nicholas I. We do not know precisely the circumstances and immediate occasion which caused the Emperor Nicholas I. to consent to the issue of the Manifesto of December 12/24, 1825, thereby setting a precedent for the repetition of these Manifestoes on the accession to the throne of each succeeding sovereign. A story, however, has come down to us, that it was not without hesitation that the Emperor put his signature to the text presented to him by the Minister State Secretary. How true the story may be we have no means of knowing, as there were no witnesses present. But we do know that it was done at a moment critical both in a political and in a dynastic sense.

The interest, however, lies in the following facts: precisely twelve days before the Emperor Nicholas I. signed at St. Petersburg the Manifesto to Finland, namely on November 30/December 12, 1825, the Governor General of Finland, Zakrevsky, at Helsingfors caused the oath of allegiance to be taken to the Grand Duke Constantine

Pavlovich, without any "Assurance" Manifesto, and this oath was administered and taken by the whole of Finland. It is plain from this, that at that time not only the bulk of the Finnish people, but also the officials of Finland attached no political importance whatever to the issue of an "Assurance" Manifesto as a condition of the taking of the oath of allegiance. The bulk of the people of Finland were obviously not in the secret of the "Försäkran." But in Petersburg matters were directed by an initiated hand, a Finlander who knew how to take artful advantage of a moment of political crisis. At Helsingfors only a single voice was heard to declare the necessity of awaiting the issue of the Manifesto; and that voice was not supported by anyone. This man alone evidently knew more than the rest.

To sum up all that has been said above, we have the right to come to the conclusion, firstly, that the title of the Manifesto in Swedish as "Försäkran" arose from the unwarranted and arbitrary change of the Russian word "Gramota" (Grant) in translation into a Swedish term in no wise corresponding, to which was later on attributed, equally without warrant, the outward appearance of being the official title of the act itself; and secondly that in these Manifestoes or "Assurances" there is no question at all of any constitution in the modern sense of that word, but merely of the legal basis of rights and privileges in general.

V

The Original (Fundamental) Laws.

The Manifestoes give expression to a confirmation and assurance of the original laws, rights and privileges of the population, and also a promise "to keep them inviolate and immutable in virtue and operation." If these words are taken in a narrow literal sense it is of course impossible not to see in them a certain limitation of the sovereign power. At the same time, if we declare for the narrow literal sense, we must go still farther: we must recognise an absolute—*i.e.*, lying outside the will of any one whatsoever—an absolute immutability of the existing order of things, if not for ever, at any rate for the duration of the reign of the sovereign issuing the Manifesto. It is perfectly self-evident that such a concept is an impossible thing either from the theoretical or from the practical point of view, yet it is the inevitable result of a literal interpretation. And here it must be noted that even the most essential question of principle on the formal side—namely, the order of abrogation of old and of the promulgation of new laws—remained undefined right up to the time of the Statutes of the Diet of 1869; for a period of more than fifty years, laws for Finland were issued and amended by the sovereign power without any sort of limitation from the point of view of the promise about their inviolability; without, moreover,

the Diet taking any part whatsoever, for the Diet did not even meet once throughout the entire reign of the Emperor Nicholas I. It is self-evident that the Manifestoes in reality amounted to a promise not to violate the laws by regulations and measures of administration and not to rescind their operation against the interests of the population ; in other words the promise was not to act as conquerors can and very often do act in conquered territory.

If this is the real meaning of the promise contained in the Manifestoes, the term " original " (literally " root ") laws is of still less service in support of the pretensions of Finlanders. In point of fact, no one up to the present moment has ever yet defined what precisely are these " original " laws : when, and by whom, were they promulgated, to what are they directed, and what subjects do they treat of. According to Finlander interpretations, which, unfortunately, have been reflected also in official procedure, to the category of " original " laws belong first and foremost these same Form of Government and Act of Union and Safety ;* but notwithstanding the perpetual discussions on the " original " laws in Finlander literature and a whole series of projects, dating over the period 1864 to 1891, a chaotic divergence of opinions reigns concerning this question, as appears very clearly

* In the original (Swedish) text of the Form of Government various epithets are applied to its provisions ; in some articles " grundlag," in others " fundamentallag," expressions which may be rendered by the words : " fundamental law," " original, principal, or essential " law.

in the minutes of the Special Council presided over by Actual Privy Councillor Bunge, in 1893. The members of the Council were divided among themselves in their views on this question, and not a single one of the Finlander members agreed with the opinion of the Governor General Count Heyden.* It is true, the Statutes of the Diet of 1869 introduce an interpretation of a "fundamental law" as one that is subject to abrogation only with the consent of the estates of the Diet of the Grand Duchy of Finland.† It is on the analogy of this that in the Manifesto of the Emperor Alexander III. the expression "original laws" has been altered to the expression "fundamental laws." But even the Statutes of the Diet did not indicate any "fundamental laws" and did not give any list of them, but merely recognised as such the principles contained in the Statutes themselves.

According to present usage in terminology we say that fundamental laws are the laws which define those subjects forming the contents of Part I. of First Vol. of the Code of Laws. But this definition of fundamental laws was first laid down in 1832, in the first edition of the Code of Laws, and cannot in any way serve for the interpretation of acts of an earlier period in the sense of defining the significance of the words "original laws." Equally and for the same reason also the special mark of "funda-

* In Finlander literature even publicists of one and the same party, such as Mechelin, Palmen, Hermanson, Weissenberg, cannot come to a common agreement.

† Statutes of the Diet, Sec. 71.

mental laws " which was introduced into the Statutes of the Diet of 1869 cannot serve for the purpose of a definition of earlier acts. It is plain, from the contents of the above mentioned projects of the years 1864 to 1891, that those who drafted them regarded the expressions " original " (literally " root ") and " fundamental " as identical; but as these projects were not confirmed this identification must be regarded as arbitrary, and in any case it removes none of our difficulties and explains nothing.*

The real meaning of the expression " original laws " can be defined, obviously, not on the basis of a terminology that came into use later on, but on the ground of the usage of words that obtained at the time of the issue of the Manifestoes of the Emperor Alexander I. If we turn to the Russian legal language of that period we are convinced

* It appears to us, therefore, that the change of the word " original " into " fundamental " in the Manifestoes of the Emperors Alexander III. and Nicholas II., when compared with previous Manifestoes, has not improved the sense. Of course, this circumstance, in view of what is said above, is not of any importance. Nevertheless, the identification of the conceptions " original " and " fundamental " laws crept into the proceedings of the Bunge Council without in any way profiting the matter in hand. It is worth noting that in the above-mentioned Memorandum of the Finnish Senate, in the rendering of the Manifesto of the Emperor Alexander I., the words " original laws " are everywhere replaced by the expression " fundamental laws." It must be carefully borne in mind that the texts of acts mentioned in this Memorandum are in general inaccurate, and do not agree with the original texts (Russian or French). But Finlander versions of documents relating to State Law have long been noted for their superabundance of inaccuracies. Ordin, in 1889, called attention to this in his book and gave a multitude of instances.

beyond all possibility of doubt that the expression " original (lit. " root ") laws " was in no wise a juridical term of accurately defined significance, but merely a popular form of speech to indicate the importance of a law, its quality as a general principle in contra-distinction to exceptions, occasionally the antiquity of origin of a law, etc. It will suffice to refer, for example, to a decree of the Council of State of date, June 24, 1822* which says: " the order issued by the Procurator-General (cited) cannot abrogate the original law," and proceeds to name as the " original law " the " General Regulation " of Peter the Great (cap. 54) and the " Institution of Provinces " (Ch. IV. p. 81).

This is the reason why so far no one has succeeded, and it is unlikely that anyone ever will succeed, in accurately defining precisely which of the old Swedish laws the Emperor Alexander I. had in mind in using the expression " original laws." The most earnest endeavours in this direction of recent writers not only have failed to elucidate the question, but have ended in results diametrically opposed one to the other: instead of a precise indication of " original " or " fundamental " laws the writers give us nothing better than a list of general, and somewhat ill-defined at that, obscure indications of such laws, and, over and above that, they are on the one hand compelled to acknowledge the *annulling* of fundamental laws by acts of the autocratic will, and on the other they

† Full Coll. Laws, No. 29137.

distinguish a third group of laws which stand *half-way between* fundamental and ordinary laws.*

It was the opinion of Count Heyden (*cf.* above p. 48) that the expression of the Manifestoes " original laws " must be construed to mean the Swedish Code of 1734 which was published by Imperial order in the Russian language for Finland in 1824. This opinion is inaccurate for, as we have seen, the expression " original laws " has not the significance of a definite term in juridical language ; but in any case it is the nearest approach to the truth in the sense that it most nearly fulfils the conditions laid down by the actual state of things. The Code of 1734/1824 is a collection of ancient laws which defined the entire internal structure and civil life of Finland. To these laws rather than to any others might be referred the promise of the conqueror—not to break or destroy them. And the promise has been fulfilled. It may be supposed that the views of Count Heyden were generally prevalent in governing spheres in former days, when the doctrine of a " Finnish State " had not yet ventured to put forth any overt claims to recognition. At least this fully explains the fact that the text of the Manifesto of March 15/27, 1809, was incorporated in the Supplement to the Code of 1734/1824 which was issued in 1827, and it is indicated in a note that the Emperor Nicholas I. issued a similar Manifesto on December 12/24, 1825.

* *See* Prof. Berendts (in Russian), " Lectures on the Administrative Law of the Grand Duchy of Finland."

VI

The Statutes of the Diet of 1869

We have shown above that the Statutes of the Diet of 1869 introduce a new interpretation of a "fundamental" law, and the Statutes themselves, besides, are likewise recognised as a fundamental law. The definition of a fundamental law is found in Sect. 71, which explains it by means of a formality, namely, thus: a fundamental law is a law which "may be promulgated, amended, interpreted or abrogated not otherwise than on the proposal of the sovereign Emperor and Grand Duke, and with the consent of all the estates." The Statutes of the Diet are recognised as a fundamental law in Sect. 83, and in addition, too, in the concluding paragraph, immediately before the sign manual of the Emperor, in the following words of His Majesty: "We approve and confirm these Statutes as an inviolable fundamental law."

A closer examination of the formulas of the Statutes of the diet, however, does not bring us to any kind of clear and distinct conclusions. First of all, it is impossible not to see that this conception of a "fundamental" law is something quite new, which up to the year 1869 had not existed, and, indeed, could not exist in the absence from the laws of a definition similar to Sect. 71 of the Statutes of the Diet. Again, Sect. 71 itself, which establishes an apparently strict and formal mark as a principle

defining a fundamental law is in fact very far from being precise. Thus it is impossible not to note the following point: according to the literal sense of Sect. 71 the promulgation of a fundamental law must proceed only with the consent of all the estates; nevertheless the Statutes of the Diet themselves are recognised as a fundamental law not only in the text of the clauses drafted and approved by the Diet, but over and above this also in the concluding formula appended to the Statutes after the signatures of the representatives of the estates, and consequently never presented for the consideration of the Diet. We are thus compelled to come to the conclusion that it was not enough, in order to recognise the Statutes of the Diet as a fundamental law, that the order laid down in Sect. 71 should be observed, that is, the simple confirmation of the Statutes, but that the special expression of the immediate personal will of the Emperor was required in addition. Again, in the latter part of the same Sect. 71 a reference is made, on an exceedingly important question of class privileges, to the "Form of Government." What is this "Form of Government?" In what relation does it stand to the fundamental laws? The text of the Statutes of the Diet gives us no answer to these questions. At the same time this Form of Government is not the Swedish Form of Government of 1772, inasmuch as the only paragraph in it relating to the question of class privileges is Sect. 52, which says nothing more than that class privileges are defined with the consent of the four estates, *i.e.*, in the same order as

is indicated for fundamental laws in the first part of this same Sect. 71 of the Statutes of the Diet. Why, then, should any reference have been made to the "Form of Government," when it would have been clearer and more simple to indicate that decrees concerning the rights of various classes are promulgated in the same order as fundamental laws ?

As to the question of what laws precisely are understood by the Statutes of the Diet to be "fundamental," and subject to the operation of Sect. 71, the Statutes not only do not enumerate them and do not indicate, even if only in the way of noting, the subjects they deal with, but they do not give us any sort of distinguishing mark for them whatever. The "Fundamental" Laws are mentioned in many paragraphs of the Statutes*; but it is impossible, from these numerous references and indications, to form any sort of conclusion. Moreover, in putting side by side passages from various places one gets even new and unexpected difficulties of interpretation. Thus, for example, the plain sense of Sects. 34 and 35 allows us to conclude that we must accept as "fundamental" all laws that have been discussed by the Diet, with the exception of such as have been incorporated in the general civil, criminal, ecclesiastical, and naval codes, as also laws of national economy. The conclusion is obviously an absurdity owing to its extreme want of definition, but it nevertheless follows directly from the text of the Statutes. In virtue of Sect. 7, "a deputy of the Diet,

* Secs. 7, 10, 24, 28, 34, 35, 53, 63, 70, 71, 83.

in the performance of his duties, is subject to no indication whatsoever but that of the fundamental laws." What does this mean? The following paragraph (Sect. 8) says plainly that a deputy is liable to trial and arrest for criminal acts done by him, not only in the quality of a private person, but in certain conditions even in the quality of a deputy; he is exempted only from being imprisoned for debt during the session of the Diet. Obviously if a deputy is brought to court according to Sect. 8 he will be subjected to all laws concerning the order of legal procedure and penalties. It is possible that the difficulty is caused by faulty drafting of Sect. 7; but in any case the drafting is such that it is impossible from the plain text of the law to arrive at a conclusion as to what the legislator precisely meant. The order for procedure of the nobility in the Diet is defined by the special Statute of Nobility, of date April 9/21, 1869, which is, in great part, something like a supplement to the Statutes of the Diet, and, here and there, even repeats the principles of the latter. Nevertheless, in virtue of Sect. 41 of the Statute of Nobility, it may be amended, not only without regard to the principles of Sect. 71 of the Statutes of the Diet, but altogether without the Diet, by means of a memorandum of the class of Nobility alone, and with the consent of the sovereign Emperor.

The result of all such comparisons, however we try to take them, is always one and the same: it remains quite indefinite what precisely the Statutes of the Diet intend to be understood by the name "fundamental laws."

The origin of these very indefinite indications of the Statutes of the Diet to the " fundamental laws " and a " Form of Government " is made clear by an historical investigation, which in itself is not without general interest. The point is this: simultaneously with the drafting of the Statutes of the Diet in 1865, there was drawn up by a Finnish codification committee, in pursuance of instructions to that effect from His Majesty, a draft of a Code or Collection of Fundamental Laws, to which the title of Form of Government was also given. In this Code or Form of Government were drafted all those decrees which the authors intended to have the significance of " fundamental laws," and in accordance therewith, in the draft of the Statutes of the Diet, references and indications were made to the fundamental laws and the Form of Government, by which was understood not any sort of previous " fundamental " or " original " laws, but precisely those detailed in the new draft. By its very scope this new draft was a real constitution for Finland, and it went, in that direction, a very great deal farther than the Form of Government of 1772, and the Act of Union and Safety of 1789, taken together. It definitely limited the sovereign power; laid down decidedly the State independence of Finland; repeatedly gave definitions of the " capital " of the Grand Duchy, and so on. If this draft had been confirmed and so come into being it would, together with the Statutes of the Diet, have laid the first principles of a real (and not a merely imaginary) constitution for Finland; under cover

of Secs. 71 and 83 of the Statutes of the Diet would have been established the inviolability by the sovereign power of the " fundamental laws" of the draft, and all further widening of the " constitution " might have been accomplished without attracting attention and quite simply, by means of either formally acknowledging or merely renaming this or that law as " fundamental." Happily Baron Rokassovsky, the Governor-General at that time, stood out against the draft, bringing some very powerful objections to bear upon it. After it had been carefully considered by several persons of trust the Emperor Alexander II. threw out the draft. Nevertheless, the Statutes of the Diet were approved by the sovereign for introduction to the Diet. It would seem under such circumstances that all the above mentioned references ought to have been cancelled in the Statutes of the Diet. But this was not done, and thus the Statutes of the Diet have been left with indefinite references, and a hiatus was formed by the absence of any indication as to what laws precisely should be considered " fundamental " laws.

In view of all these considerations, from the point of view of scientific juridical criticism, it inevitably follows that all these principles of the Statutes of the Diet of 1869 concerning " fundamental laws " must be taken to be void of any definite signification, and the Statutes themselves regarded as in the highest degree a faulty act, lacking in the properties that characterise a finished law.

VII

General Significance of the Manifestoes

Enough has been said above, no doubt, to define sufficiently the general significance of the Manifestoes or Assurances under consideration as a whole. There are acts differing in importance from the Grants, Universals, Rescripts and Decrees which were given of old time by our sovereigns to the population of territories newly conquered and annexed to Russia, and even to the inhabitants of separate townships. As we have seen above the Manifestoes of Alexander I., as also those of Nicholas I. and Alexander II. were plainly called "Grants" in their concluding paragraphs, but this word was artfully got rid of in subsequent Manifestoes and the title "Grant" rendered by the Swedish technical term "Försäkran."

A number of these Grants are to be found in the Full Collection of Laws; not a few have been printed in various collections of ancient documents. Of course the word "constitution" does not occur in these Grants; its place is filled by another foreign word, "privileges"—but in all else the resemblance is complete. Thus in the Grant of the Czar Alexis Michaelovich of 1654 to the Hetman Bogdan Khmelnitsky and to the entire Zaporog troops* we find a confirmation of "their former rights and military liberties, as of old time has been under Grand

* Full Coll. Laws, No. 119.

Princes of Russia and Kings of Poland, that they were judged and had their liberties in goods and in law and that none might intervene in these their military courts, but that they be judged by their own elders, and that their former rights such as have been given to persons of clerical or lay rank by Grand Princes of Russia and by Kings of Poland shall not be violated." The same year a grant was made to the town of Kiev*: "We, the Great Lord, Our Royal Majesty have granted to our subjects burgesses of the town of Kiev and have ordered them to be under the high protecting hand of Our Royal Majesty according to previous rights and privileges, such as were granted them by the Kings of Poland, and these rights and privileges we have ordered in no wise to be violated."

Peter the Great in the years 1710 and 1712 issued several of these Grants, in the form, moreover, of solemn Manifestoes, to the population of the Baltic Provinces and to towns, as in the year 1795 the Empress Catherine the Great also did to the inhabitants of the Duchies of Courland and Semigallia.† In certain of the Grants of this category the following addition is made to the customary promises: "for Us and for Our lawful Heirs." Take for example the Universal of August 16, 1710, and the Manifesto of March 1, 1712. The Universal runs: "We, Peter I., by the Grace of God, Czar and Emperor of All the Russias, etc., so soon as by the will of God this land shall be entirely subjected to Our power, we are

* Full Coll. Laws, No. 133.
† Full Coll. Laws, Nos. 2287, 2301, 2302, 2495, 2501, 17319.

minded not only to leave, without introducing anything new in the whole country and the towns, the now professed Evangelical religion, all their ancient privileges, liberties, rights and advantages, which, as all the world knows, were constantly being violated under Swedish sovereignty, and to preserve them sacred and keep them according to their precise sense and interpretation, but also promise on occasion to multiply them with others wider and of greater importance." The Grant delivered March 1, 1712, to the nobility and zemstvo of the Estland Principality says: "We confirm by these presents to them the free open observance of the Evangelical faith, and therewith all their ancient privileges, as also accords, assents, rights, courts, recesses, statutes, Christian zemsky customs, and usages, in which we desire to defend, protect and keep them, as they have been received and held from Kings to Kings, from Hoch-Meisters to Hoch-Meisters, from Herr-Meisters to Herr-Meisters, and from sovereigns to sovereigns. Similarly also we promise them most graciously that they and their descendants in all this shall be always held and preserved."

It is impossible to avoid noticing the very close resemblance, even textually, between these Grants to the Baltic Provinces and the Manifestoes to Finland. The Baltic Grants are the direct prototype of the Finnish Manifestoes, and the latter differ from their prototype only in an improved style and in certain abridgments. The Baltic Grants are even more strongly worded for they include direct promises for the future, for ever.

Finally, in the present (nineteenth) century there is the Manifesto, on the annexation of the Kingdom of Georgia to Russia, of January 18, 1801.*

It says: "We declare by Our Imperial word that on the annexation of the Kingdom of Georgia for time everlasting under Our sovereignty . . . shall be left in their entirety observed to Our affectionately true new subjects of the Kingdom of Georgia and of all territories vassal to it, all rights, privileges and property lawfully belonging to each."

A circumstance sometimes pointed to as giving special force to the Finnish Manifestoes is that these Manifestoes were repeated and confirmed by the successors of the Emperor Alexander I. on their accession to the throne. It is quite true that the majority of the above mentioned Grants were not repeated: they were simply forgotten and no one ever conceived the idea of using them as a foundation for separatist tendencies. But certain of them have been repeated, though this did not give them any kind of special significance. Thus the Grant to the town of Kiev was confirmed by the Emperor Paul in 1797†. In this Decree are the words: "We most graciously order that the company of citizens of this ancient Capital of our deceased ancestors, Autocrats of All the Russias be maintained inviolably in all those rights, liberties, advantages, town revenues and profits, which have been appropriated to the aforementioned town by Grants and privileges of

* Full Coll. Laws, No. 19721.
† Full Coll. Laws, No. 18142.

Their Majesties which also we in virtue thereof renew and confirm."

In the same way and for a long period, in fact, until the accession to the throne of the Emperor Alexander III., were repeated and confirmed certain Grants to the Baltic Provinces.* But in 1881, when the question was raised of issuing according to former precedent confirmatory Grants, the Minister of the Interior, before reporting on the matter to His Majesty the Emperor, entered into a correspondence with the former Second Department of His Majesty's Private Chancellery and with Senator Manassein, who was then engaged in the inspection of the Baltic Provinces. A committee formed to discuss this matter in the Second Department came to the conclusion "that no need has been shown for the confirmation of the rights and privileges in question by a special act"; Senator Manassein replied that the confirmation of previous Grants was unnecessary from the point of view of local interests, and from the point of view of the interests of the State was harmful. This put an end to the matter. At the same time, the Baltic Provinces and their separate parts possessed in former history incomparably more of the elements of State independence than Finland ever had; at the time of the conquest by Peter the Great the provinces occupied by him were also in precisely the same position of provinces of Sweden.

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* Full Coll. Laws, 1731 A.D., No. 5732; 1742, No. 8653; 1764, No. 12092; 1801, No. 20010; 1827, Nos. 888 and 889; 1856, Nos. 30185, 30186, 30187 and 30188.

There cannot be the slightest doubt but that the Emperor Alexander III., in putting a stop to the repetition of the Baltic Grants, might in precisely the same way and on the same satisfactory grounds, have ceased the repetition of the Manifestoes to Finland. If this was not done it was entirely owing to the isolation of the administrative government of Finland.

Turning now specially to the last of the Manifestoes to Finland, that of our present happily reigning monarch, the Emperor Nicholas II. of October 25/November 6, 1894, it is impossible not to recognise that, apart from all that has been said above, this Manifesto was issued under circumstances that gave it, at any rate on the one side, the necessary definiteness in scope and contents. The question as to what " original " or " fundamental " laws of Finland precisely are understood in the Manifesto remains unanswered as before ; but it is perfectly plain that this Manifesto relates only to Finnish laws of an exclusively local signification, and does not in any wise extend to those ordinances by which are defined subjects, questions or relations of general State significance, which are subjected to the operation of those laws the order of promulgation of which was defined by the Manifesto and Fundamental Principles of February 3, 1899.

In former times this distinction between *local* Finnish laws and laws of *general State significance* was not made clear. If it were so desired it was quite possible to argue that the Manifestoes related to all laws whatsoever in operation and in force in Finland. To our surprise and

regret even the Statutes of the Diet of 1869 did not give any leading principles for the clearing up of this difficulty. Russian State practice, of course, in the majority of cases, went its own independent way and firmly settled questions of general State interest by legislative acts, without the co-operation of the Finnish Diet and without paying any regard to the interpretations put by Finlanders on the Manifestoes. Of such laws, it is well known that a number have been promulgated, both before the issue of the Statutes of the Diet and in the same way also after 1869*. But the absence of a general explanation of this question, none the less, gave the Finlander members of the Special Council of Privy Councillor Bunge in 1893 a pretext for

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* *Cf.* the index (issued by the Temporary Commission for the collection of information on Finnish Laws) of ordinances relating to the Grand Duchy of Finland (Full Coll. Laws, 1808–1899), St. Petersburg, 1899.

Among the most important ordinances promulgated of late years without the co-operation of the Diet may be named: May 28, 1885, on Trade Relations of the Empire with the Grand Duchy; June 27, 1885, the institution of an Assistant Governor-General; and the Manifestoes of May 31, 1890, bringing the posts of Finland under the administration of the Minister of the Interior; August 2, 1890, extending the circulation in Finland of Imperial moneys; and December 1, 1890, staying the operation of the new Criminal Code for Finland. Also Imperial Orders; February 4, 1891, on the rights of Russian subjects, except Jews, to acquire real property in Finland; August 1, 1891, amending regulations for administrative procedure and appointments to official posts; and December 7, 1891, for extending the knowledge of Russian among officials; the Imperially sanctioned new institution of the Imperial Finnish Senate of September 13, 1892; the Manifesto and Fundamental Principles of February 3, 1899, on the order of promulgation of laws of general State interest; the Manifesto for June 7, 1900, on the use of the Russian language in official proceedings.

declaring that in Finland only Finnish laws exclusively were in force and in operation.

This declaration may be taken to be the last that can be considered as resting in any degree upon honest views, founded though those views may be on misunderstandings of former years. The labours of the Bunge Council and the Imperial order of March 9, 1893, led to a clear explanation of the question of the distinction between *local* Finnish and *general State* laws in the sense indicated in an earlier chapter.*

The old difficulty has been explained and settled once for all. The Imperial order of March 9, 1893, has left no kind of doubt that laws of general State interest cannot belong to the so-called " fundamental (or original) laws " of Finland, that these can only consist exclusively of local laws or laws of local significance. From this there follows one only conclusion: neither the Manifestoes nor the Statutes of the Diet, which define the order of promulgation of Finnish laws, relate to general State laws, but only to local Finnish laws.

Such was the state of things on the accession to the throne of the Emperor Nicholas II. It is plain from this that the Manifesto of October 25/November 6, 1894, cannot in any case be interpreted in the sense of applying the promise given therein to all kinds of laws, in force and in operation in Finland, both local and also general State laws. Consequently we may say with perfect con-

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* Chap. II.

fidence that all attempts to object against the new order of promulgation of general State laws, by means of references to Manifestoes and Assurances, are unworthy in our days of the slightest consideration.

VIII

The Operation in Finland of Russian Laws Promulgated in the General Order

The declarations of Finlander politicians that in Finland only Finnish laws ought to be in operation, though they emanate, as we have shown above, in a sheer misunderstanding of the question in principle, nevertheless continue to be repeated. Certain of these Finlander politicians, however, are willing to make a concession: they allow the operation of Russian laws, but only of laws relating to the internal life of the Russian forces quartered in the country and to Consular establishments, explaining this concession as on the principles of *extra-territoriality*. It is thus possible to arrive at the conclusion that Finland must be reckoned not only a State of a peculiar type or a fragment of State, but even a genuine *foreign* State in relation to Russia.

Nowadays, after all the explanatory work which has been done in the course of the legislative labours of the last few years, it is no longer possible *bona fide* to consider this declaration a simple matter of misunderstanding. We have a right to account it the wilful spreading of a false doctrine, which does not so much even as deserve refutation. Unfortunately, however, it belongs to those general formulæ and commonplaces of expression which, while really containing very little and that little

absolutely unfounded, nevertheless are distinguished by a faculty for imposing on the masses solely by virtue of the tempting political prospects held out by such views. For this reason we shall pause for a moment on this point separately.

From the first day of the subjection of Finland to the Russian sovereign power there began to operate, operate now, and will continue to operate in Finland, side by side with the local legislation, many Russian laws promulgated in the general order, *i.e.*, without the co-operation of the Finnish Diet and other Finlander authorities. They are contained in plenty in the Full Collection of Laws of the Russian Empire, introduced into the Code of Laws and into the Code of Military and Naval Ordinances.* Such are first and foremost, the Fundamental State Laws of the Russian Empire (Code of Laws, Vol. I.); all treaties, laws and acts, relating to international affairs and the Consular department; all laws and ordinances of military character and generally having relation to the external defence of the State. Next, the force of law belongs and is operative in the territory of Finland to all decrees of the Most Holy Synod and other regulations defining the administration of the Finland and Viborg Orthodox

* *See* the works issued by the Temporary Commission for the collection of information on Finnish laws: (1) The Index of articles of the Code of Laws of the Russian Empire relating to the Grand Duchy of Finland; and (2) the Lists of paragraphs relating to the Grand Duchy of Finland of the Military and Naval Codes of Ordinances. These indices have by no means an exhaustive significance as they comprise only such paragraphs of the laws in force in which Finland is specifically named.

Eparchies, the ecclesiastical administration and church matters of Orthodox monasteries, parishes and orthodox inhabitants of Finland; the church affairs of Finlander Catholics and other alien religions are directed by the laws of the "Statutes of Church Affairs of the Foreign Faiths" (Code of Laws, Vol. XI.); Further, Russian publications in Finland are subject to the operation of Russian press laws (Code of Laws, Vol. XIV.); the Finnish government telegraph (except the railway telegraph) is subject to the Russian telegraph regulations; the Russian Treasury at Helsingfors operates, naturally, according to Russian and not Finnish regulations; Branches of the State Bank in Finland are guided only by the Statutes of the State Bank (Code of Laws Vol. XI., part 2); the disposition and administration of such educational establishments in Finland, as are under the Ministry of Education for the St. Petersburg Educational District, are similarly directed by general Russian laws, and so on.

It is utterly impossible to recapitulate exhaustively here all those ordinary and general Russian laws, of various kinds and forms, which have in this or that part of their scope, force and application in Finland; they, of course, are not local Finnish laws, but at the same time they do not belong to the category of those laws of general State significance the order of promulgation of which was defined by the Manifesto of February 3, 1899, they are just simply Russian laws. Their application in Finland is decided not by any sort of special law, but by their very substance and by the position also of Finland as an

inseparable part of the Russian State. Moreover, they are applied very often in Finland without any kind of special indication of the legislator. This began, as we have said, from the very day of the conquest of Finland and did not and could not meet with any kind of obstacles.*

Further, all the above-mentioned laws were applied and are applied in Finland not only in their original texts but also in their codified forms. The majority of them have not even been published in the order established for local legislation in Finland, *i.e.*, they have not been heard in the Finnish Senate and have not been printed in the Collections of Ordinances of the Grand Duchy of Finland—these laws were published by the Ruling Senate and printed in the Collection of Laws and Regulations of the Government.

Is it possible after all this to say that " only Finnish laws are in operation within the limits of Finland " ?

* This is definitely indicated both by the Bunge Council and in the Minutes of the Special Council for the drafting of the Manifesto and Fundamental Principles of February 3, 1899, where are cited, as examples, the principal categories of these laws, namely : Fundamental Laws of State, the Statutes of the Imperial House, laws concerning the external protection of the State, and the disposition of military forces, etc.

IX

Conclusion

In conclusion let us briefly set forth the main principles, as follows :

(1) The unlimited authority of the Autocrat in Finland was not limited on its annexation to Russia and no sort of constitution was either issued or confirmed by the Emperor Alexander I.

(2) The Manifestoes (Assurances) do not set aside any kind of reforms, or any issue of new laws in the order that shall be established by the sovereign power.

(3) The repetition of the Manifestoes (Assurances) does not give them any special significance.

(4) The expression " original laws " has not the force of a technical term defining any kind of special category of laws in the quality of inviolable or established in any special order whatsoever.

(5) The Form of Government of 1772 and the Act of Union and Safety of 1789 are not distinguished by anything from all other ancient Swedish laws which in their general mass could preserve their force in so far only as they were in accordance with the changed condition of Finland and with the changes in the order of administration.

(6) Out of the whole mass of ancient Swedish laws it is possible to except as marked by the highest

importance only the Code of 1734 in that scope in which it was issued in the Russian language in 1824.

(7) The principles of the Statutes of the Diet of 1869 on " fundamental laws " must be acknowledged as having no definite signification, and the Statutes themselves as lacking the properties of a completed law.

(8) The principle of Sec. 71 of the Statutes of the Diet, in connection with the draft of " fundamental laws " of 1865, contains the first attempt at a formal limitation of the Autocracy and is the first, in point of time, legislative act containing the substance of a constitution.

(9) Finland never had and ought not to have any marks of State independence and separate existence.

(10) Territorial autonomy was given to Finland by Russian sovereigns solely of their own will.

The history of peoples has its laws. The annexation of Finland and the establishing of natural frontiers with the States of the Scandinavian peninsula completed the age-old impulse of ancient Russia to the Baltic Sea. While the Russian State exists, Finland and Russia must form a single political body ; history will not go back and no party impulses of the Finlanders will rend that body asunder. But a criminal opposition to the normal course of life of the State may lead to another result : the insulted ideal of political unity will set a limit to the easy good nature of Russia and mercilessly demand victims. In that case the " Finnish Question " will be disposed of very speedily.

APPENDIX.

I

Imperial Manifesto of February 3, 1899
(Translation.)

By the Grace of God, We, Nicholas the Second, Emperor and Autocrat of All the Russias, King of Poland, Grand Duke of Finland, etc., etc., etc., announce to all Our true subjects:

The Grand Duchy of Finland, entering from the beginning of the present century into the composition of the Russian Empire, enjoys, by the magnanimous sovereign will of the Emperor Alexander the Blessed of revered memory and of his sovereign successors, special institutions in relation to internal administration and legislation, which correspond to the conditions of life of the country.

But independently of subjects of local legislation of Finland, arising out of the peculiarities of her social structure, in the course of State administration concerning this borderland there arise also legislative questions, which by their close connection with general needs of the State cannot be subjected to the exclusive operation of the institutions of the Grand Duchy. The order of resolving questions of this nature is not defined in legislation in force by any precise principles, and the want of them has given rise to serious inconveniences.

To remove these inconveniences, We, in our unceasing care for the good of all Our subjects without distinction have considered it useful, in supplement to the ordinances in force and for the guidance of the institutions of the Empire and the Grand Duchy of Finland concerned, to establish a firm and unalterable order of their competence in the drafting and promulgation of general State laws.

At the same time, while leaving in force existing principles on the promulgation of local laws relating exclusively to the needs

of the Finnish country, We have thought it necessary to reserve to Our discretion the immediate indication of subjects of general Imperial legislation.

With these views We have confirmed by Our sign manual the Fundamental Principles to be issued herewith on the compilation, examination and publication of laws issued for the Empire including the Grand Duchy of Finland.

Following the example of Our Imperial forefathers, We see a pledge for the progress of Finland in the closest union with the Empire. Finland under the shadow of the Russian Power and strong in her protection, during almost an entire century has followed undeviatingly the path of peaceful progress, and it was a matter of rejoicing to Us to assure Ourselves by the recent declarations of the zemsky officials that the hearts of the people of Finland are quick with the sense of devotion to Us and to Russia.

We trust that the joint activity, founded on firm indications of a positive law, of the institutions of the Empire and of the Grand Duchy of Finland in those legislative matters which concern their mutual interests will serve to more thoroughly secure the real profit and advantage of the Russian State.

Given at Sanct-Peterburg, on the third day of February, in the year of Our Lord one thousand eight hundred and ninety-nine in the fifth year of Our reign.

On the original signed by His Imperial Majesty's sign manual thus :

"NICHOLAS."

II

Fundamental Principles of February 3, 1899
(Translation.)

Fundamental Principles on the Compilation, Examination and Promulgation of Laws issued for the Empire including the Grand Duchy of Finland.

(1) The first draft sketch of laws to be issued for the Empire including the Grand Duchy of Finland shall originate in each several instance with the Imperial will in those cases where it appears necessary on the general course of matters of administration to draw up a new ordinance or amend or supplement an existing law.

(2) This order shall be observed both in relation to laws which operate over the whole extent of the Empire including the Grand Duchy of Finland; and equally also to laws to be applied in the limits of the Grand Duchy if they concern general State needs or are connected with the legislation of the Empire.

(3) The Imperial will regarding the promulgation of the above indicated laws (artt. 1 and 2) shall be ascertained by the corresponding Minister of the Empire and Minister State Secretary of the Grand Duchy of Finland, after preliminary communication with one another. The Governor-General of Finland when in the course of administration of the Grand Duchy he may deem necessary to fill out the laws in operation in the borderland in the order laid down by these present Principles shall communicate his proposals on this head, for their further direction, to the corresponding Minister of the Empire, and to the Minister State Secretary of the Grand Duchy.

(4) The Imperial will having been ascertained regarding the issue of a law for the Empire including the Grand Duchy of Finland, the Minister of the Empire shall communicate concerning the receipt of conclusions on the principle of the draft of the law

in question with the Governor-General of Finland, with the Minister State Secretary of the Grand Duchy of Finland and with the Imperial Finnish Senate.

(5) On those legislative proposals which in the order of internal administration of the Grand Duchy of Finland are submitted to the consideration of the Finnish Diet, the conclusion of the Diet is required also in the order of promulgation of laws mentioned in art. 2 of these presents. The conclusion of the Diet shall be taken at the next ordinary assembly if there be no Imperial order for the summoning for this purpose of an extraordinary Diet.

(6) On receipt of the conclusions of the Governor-General of Finland, of the Minister State Secretary of the Grand Duchy of Finland and of the Imperial Finnish Senate, and in the competent cases (art. 5) also of the Finnish Diet, the Minister of the Empire shall introduce the draft-law into the Council of State in the order laid down in its Statutes. To the presentment on this subject shall be appended in copies the conclusions of the Senate and the Diet.

(7) The draft-law shall be examined by the Council of State on the general basis, with the co-operation of the Governor-General of Finland and the Minister State Secretary of the Grand Duchy of Finland, as also of such Senators of the Imperial Finnish Senate as, by Imperial choice, shall be appointed therefor.

(8) The opinion of the Council of State on the draft-law in question on approval and confirmation by His Majesty shall be published in the established order both in the Empire and in the Grand Duchy of Finland.

On the original signed by His Imperial Majesty's own hand, thus :

"To be as herein."

At St. Petersburg,
February 3, 1899.

APPENDIX III.*

(Translation.)

COPY.

On the original signed by His Imperial Majesty with his own hand.

"*To be as herein.*"

Baltic Port, aboard the yacht "Standard,"

17 *June*, 1910.

Countersigned by Secretary of State Makarov.

Approved by the State Council and the State Duma.

THE LAW CONCERNING THE ORDER OF PROMULGATION OF LAWS AND REGULATIONS OF GENERAL INTEREST TO THE STATE CONCERNING FINLAND.

I

Be it enacted in explication, amendment, supplement and abrogation of previous statutes, among them statutes promulgated for the Grand Duchy of Finland in the order of special legislation (Code of Laws, Vol. I., Sec. 1, Fundamental Laws, Ed. of 1906, art. 2), as follows :

1. Laws and regulations whose operation extends to the Grand Duchy of Finland are promulgated :

(1) In the order laid down by general legislation if they relate not only to solely internal affairs of this country and

(2) In the order laid down by special legislation (Fundamental Laws, Ed. of 1906, art. 2) if they relate only to solely internal affairs of this country.

2. Independently of the Fundamental Laws of the State as also of other laws and regulations, promulgated in the general

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* I have thought it advisable to add to Prof. Sergeevsky's essay the Law passed June 17/30, 1910.—(*Trans.*)

order of legislation, whose operation extended to Finland before the promulgation of the present law, together with statutes amending or supplementing the same, to the number of the laws and regulations indicated in Sec. (1) of art. 1 are referred all such as define :

(1) The share of Finland in State expenditure and the institution therefor of contributions, collections and imposts.

(2) Obligatory military service for the population of Finland as also other obligations serving for military needs.

(3) The rights in Finland of Russian subjects who are not Finnish citizens.

(4) The use in Finland of the language of the State.

(5) The fundamental principles of the administration of Finland by special institutions on a basis of special legislation (Fundamental Laws, edition of 1906, art. 2).

(6) The rights, obligations and order of action in Finland of Imperial institutions and authorities.

(7) The carrying out in Finland of sentences, decisions and rulings of courts of law and the demands of authorities of other parts of the Empire, as also of contracts and deeds therein executed.

(8) The establishment in the interests of the State of exemptions from Finnish criminal and administrative laws.

(9) The securing of the interests of the State in the matter of drawing up the educational curriculum and inspection of schools.

(10) Bye-laws for public meetings, societies and unions.

(11) The rights and conditions of working in Finland of firms and companies established in other parts of the Empire and abroad.

(12) Legislation for the Press in Finland and the import of printed matter from abroad.

(13) Customs department and customs tariff in Finland.

(14) Protection in Finland of trade and industrial marks and patents, as also the rights of literary and artistic property.

(15) The monetary system in Finland.

(16) Posts, telephones, aviation and similar methods of communication in Finland.

(17) Railways and other ways of communication in Finland in their relations to the defence of the State, as also to communications between Finland and the other parts of the Empire and to international communications; the railway telegraphs.

(18) Navigation and pilotage and lighthouses in Finland.

(19) The rights in Finland of foreigners.

3. Alteration in and addition to the list of laws and regulations contained in art. 2 are made in the order of general legislation solely on the initiative of the Emperor.

4. On the points of legislation indicated in Secs. 1–19 of art. 2, the initiative belongs solely to the Emperor.

5. Legislative proposals, on subjects indicated in Secs. 1–19 of art. 2 and in art. 3, drafted by Ministers and Administrative Heads of separate departments, are referred before introduction to the Council of Ministers, by the Minister or Administrative Head concerned, through the Governor General of Finland, to the Imperial Finnish Senate for its conclusions. The delivery to the Imperial Finnish Senate for its conclusions of proposals of Ministers and Administrative Heads on other matters concerning Finland than those indicated in art. 2, depends upon the Council of Ministers and is done in the same order.

Ministers and Administrative Heads are empowered, in delivering matters to the Imperial Finnish Senate for its conclusions, to fix a definite term for the communication of the result, on the expiry of which the business takes its further course without the conclusion of the Imperial Finnish Senate if such has not been duly communicated.

The conclusions of the Imperial Finnish Senate are communicated by the Governor-General of Finland to the Minister or Administrative Head concerned.

6. Proposals on matters of laws and regulations indicated in Sec. (1) of art. 1, drafted by the Governor-General of Finland or the Imperial Finnish Senate, are brought before the Council of Ministers by the Governor-General.

7. Bills on matters indicated in Secs. 1–19 of art. 2 and in art. 3, provided they concern the competence of the Finnish Diet or affect local Finnish laws that have passed through the Diet, are referred by the Council of Ministers, before the introduction of such Bills to the State Duma, to the Finnish Diet for its conclusions. Reference to the Diet for its conclusions of Bills upon other business concerning Finland indicated in artt. 2 and 3, depends upon the Council of Ministers, and is made likewise before introduction of such Bills to the State Duma.

Bills concerning Finland (artt. 2 and 3) on which the conclusions of the Finnish Diet have not been asked by the Council of Ministers may be referred to the Diet for its conclusions in virtue of a resolution of the State Duma, provided that such reference shall be made only before the acceptance of the Bill by a General Assembly of the State Duma.

Bills to be referred to the Diet for its conclusions by resolution of the Council of Ministers or of the State Duma, are communicated to the Diet by the President of the Council of Ministers through the Governor-General of Finland. The conclusions of the Diet on Bills referred to it in this way are made in the course of the same, ordinary or extraordinary, session in which they were introduced to it, if the reference of the Bill to the Diet took place not later than two months before the closing of the session ; otherwise in the course of the next ordinary or extraordinary session. These conclusions as also all supplementary matter relating to them are communicated, in the Russian language, through the Governor General of Finland to the President of the Council of Ministers who directs them further as required. If no conclusion of the Diet follows in the course of the above-defined term the Bill in question is directed further as required without such conclusion.

8. The publication in general statutory order by the Ruling Senate of laws and regulations indicated in Sec. (1) of art. 1 shall be deemed publication also in Finland.

The Governor-General of Finland on his part takes appropriate measures for the translation of these laws and regulations into the

Finnish and Swedish languages and for acquainting the local population with their contents.

9. The supreme supervision over the execution of laws and regulations indicated in Sec. (1) of art. 1, as also their explication and confirmation and likewise the decision of disputes and dubieties arising from them, belongs, on the general basis, to the Ruling Senate. The Governor-General of Finland on his part takes the necessary measures to have the decrees of the Ruling Senate duly enforced in Finland.

10. Laws and regulations promulgated in the general order of legislation (art. 1, Sec. (1)) abrogate of themselves all rulings not in accordance with them of Finnish laws and regulations promulgated in the special order (art. 1, Sec. (2)), and are operative notwithstanding any opposing rulings of the aforesaid local statutes whatsoever.

11. Laws and regulations promulgated in the special order of legislation (art 1, Sec. (2)) cannot abrogate nor amend or supplement, nor stay, nor explain laws and regulations promulgated in the general order (art. 1, Sec. (1)).

II

Members from the population of the Grand Duchy of Finland to be included in the Council of State and the State Duma by election on the basis of the Statutes of the Council of State and the Principles of elections to the State Duma, with the following amendment and additions.

A.—In elections to the Council of State.

1. The Finnish Diet elects for a term of three years two members of the Council of State from the number of those persons competent to take part in elections for the Diet and satisfying the requirements laid down in artt. 3 and 4. Detailed bye-laws on the order of election of the aforesaid members of the Council of State are drawn up by the Diet.

2. In the Grand Duchy of Finland the following, over and above the persons indicated in Art. XX. of the Statutes of the Council

of State (Code of Laws, Vol. I., Part II., Ed. of 1906, and Supplement of 1908) are not eligible for election to the Council of State : (1) Persons who have been tried for criminal acts punishable according to the provisions of the local Criminal Code by imprisonment in a penitentiary or deprivation of confidence as a citizen, or disability for the public services of the country, when not acquitted by sentence of a court of law, even though relieved of the penalty by lapse of time, in virtue of an Imperial Grace or by special order of His Majesty ; (2) persons removed according to sentences of courts of law in the Grand Duchy from the execution of the duties of their service—for the space of three years from the moment of such removal, even though they should have been relieved of the penalty by lapse of time, in virtue of an Imperial Grace or by special order of His Majesty ; and (3) persons charged with criminal acts indicated in Sec. (1) of this article or involving removal from the execution of the duties of their service.

3. Persons ignorant of the Russian language cannot be elected members of the Council of State.

4. Electoral proceedings of the Diet (art. 1) as also protests of irregularity in elections and explanations on these protests of the Talman of the Diet are presented in the Russian language within one month after the elections to the Governor General of Finland, who directs them as laid down in the statute as required (Statutes of the Council of State, Ed. 1906, art. 22).

B.—In elections to the State Duma.

1. Four members from the population of the Grand Duchy of Finland enter the State Duma.

2. Members of the State Duma from the population of Finland are elected by the Finnish Diet from among the number of persons having the right to take part in elections to the Diet and satisfying the requirements indicated below in arts. 3 and 4.

Detailed bye-laws on the order of election of the aforesaid members of the State Duma are drawn up by the Diet.

3. In the Grand Duchy of Finland the following, over and above the persons indicated in arts. 9 to 11 of the Principles

of elections to the State Duma (Code of Laws, Vol. I., Part II., Ed. of 1907) are not eligible for election to the State Duma: (1) Persons who have been tried for criminal acts punishable according to the provisions of the local Criminal Code by imprisonment in a penitentiary or deprivation of confidence as a citizen, or disability for the public services of the country, when not acquitted by sentence of a court of law, even though relieved of the penalty by lapse of time, in virtue of an Imperial Grace or by special order of His Majesty; (2) persons removed according to sentences of courts of law in the Grand Duchy from the execution of the duties of their service—for the space of three years from the moment of such removal even though they should have been relieved of the penalty by lapse of time, in virtue of an Imperial Grace, or by special order of His Majesty; (3) persons charged with criminal acts indicated in Sec. 1 of this article or involving removal from the execution of the duties of their service.

4. Persons ignorant of the Russian language cannot be elected members of the State Duma.

5. Electoral proceedings of the Diet (art. 2) as also protests of irregularity in the elections conducted by it and explanations on these protests of the Talman of the Diet are presented in the Russian language within one month after the elections to the Governor-General of Finland, who presents the list of persons elected to the State Duma to the Ruling Senate for publication for the general information, and forwards the electoral proceedings, protests and explanations to the State Duma.

III

The expenditure on the statutory payment of members and reimbursement of travelling expenses for Members of the Council of State and the State Duma from the population of the Grand Duchy of Finland (Statutes of the Council of State, Ed. of 1906, Art. XXVIII.; Statutes of the State Duma, Ed. of 1908, Art. XXIII.) is to be charged upon the State Treasury with reimbursement of equivalent amounts from the Finnish fisc.

The President of the Council of State
(*Signed*) M. Akimov.

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